

EXHIBIT 3

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
Case No. 1:13-CV-7060-CM
-----)
MARVIN PEARLSTEIN, Individually And
On Behalf of All Others Similarly Situated,
Plaintiffs,
vs.
BLACKBERRY LIMITED (formerly known as
RESEARCH IN MOTION LIMITED),
THORSTEN HEINS, BRIAN BIDULKA,
and STEVE ZIPPERSTEIN,
Defendants.
-----)

DEPOSITION OF LUCY P. ALLEN
New York, New York
September 20, 2018

Reported by:
Linda Salzman
JOB NO. 147982

Page 2

September 20, 2018
10:05 a.m.

Deposition of LUCY P. ALLEN, the
witness herein, held at the offices of
Morrison & Foerster, 250 West 55th Street,
New York, New York, 10019, pursuant to
Notice, before Linda Salzman, a Notary
Public of the State of New York.

Page 3

A P P E A R A N C E S:

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BY: JAMES BEHA, II, ESQ.
STEVEN RAPPOPORT, ESQ.

Page 4

ALSO PRESENT:
JACK LONG
SHEILA PIERCE, ESQ. (via phone)
Senior Director, Legal Counsel at
BlackBerry

Page 5

STIPULATIONS
IT IS HEREBY STIPULATED AND
AGREED by and among counsel for the
respective parties hereto, that the
sealing and certification of the within
deposition shall be and the same are
hereby waived;

IT IS FURTHER STIPULATED AND
AGREED all objections, except as to the
form of the question, shall be reserved
to the time of the trial;

IT IS FURTHER STIPULATED AND
AGREED that the within deposition may
be signed before any Notary Public with
the same force and effect as if signed
and sworn to before the Court.

1 L. Allen
2 MR. BROWER: Can you mark that
3 as 1.

4 (Allen Exhibit 1, five-page
5 letter, marked for identification, as
6 of this date.)

7 THE VIDEOGRAPHER: This is the
8 start of media labeled 1 of the video
9 recorded deposition of Lucy P. Allen
10 in the case of Marvin Pearlstein, et
11 al. v. Blackberry Limited, et al., on
12 September 20, 2018, at approximately
13 10:05 a.m.

14 My name is Manny Garcia.
15 I'm the legal video specialist
16 for TSG Reporting. The court
17 reporter is Linda Salzman, in
18 association with TSG Reporting.

19 Counsel, please introduce
20 yourselves.

21 MS. MILLER: Kim Miller, Kahn
22 Swick & Foti, for plaintiffs, and Matt
23 Woodard, from my office, Jack Long,
24 who works with Mr. Feinstein.

25 MR. BROWER: David Brower for

1 L. Allen
2 the plaintiffs.

3 MR. BEHA II: James Beha, from
4 Morrison & Foerster, for the
5 defendants, and with me also is my
6 colleague, Steve Rappoport. And
7 Sheila Pierce, an in-house attorney at
8 BlackBerry, is participating by
9 telephone.

10 MR. BROWER: Mr. Beha, you're
11 representing the witness as well?

12 MR. BEHA II: Yes.

13 THE VIDEOGRAPHER: Court
14 reporter, please swear in the witness.
15 LUCY ALLEN,
16 called as a witness, having been duly
17 sworn by a Notary Public, was examined
18 and testified as follows:

19 EXAMINATION BY

20 MR. BROWER:

21 Q. Good morning, Ms. Allen.

22 A. Good morning.

23 Q. Who do you work for?

24 A. NERA.

25 Q. And how long have you worked for

1 L. Allen
2 NERA?

3 A. I think it's 24 years now,
4 but --

5 Q. And who owns NERA?

6 A. Marsh & McLennan.

7 Q. Marsh & McLennan is a public
8 company?

9 A. Yes, it is.

10 Q. Are you paid by NERA?

11 A. I don't know if I'm technically
12 paid by Marsh & McLennan or NERA.

13 Q. Okay. And you're a salaried
14 employee?

15 A. Yes, I am.

16 Q. What's your salary?

17 MR. BEHA II: Objection.

18 Q. Currently?

19 A. I prefer not to answer that.

20 Q. Well, you don't really have a
21 choice, ma'am.

22 MR. BEHA II: Objection. It's
23 not relevant.

24 MR. BROWER: Are you directing
25 her not to answer?

1 L. Allen

2 MR. BEHA II: I'm -- I'm
3 objecting and saying that it's not
4 relevant --

5 MR. BROWER: Are you directing
6 her not to answer?

7 MR. BEHA II: I'm not directing
8 her not to answer.

9 MR. BROWER: Okay.

10 Q. Will you answer the question,
11 please, ma'am?

12 A. I prefer not to answer that
13 question.

14 Q. You really don't have a choice,
15 ma'am.

16 A. It's private information, and I
17 think it's competitive information, from
18 my perspective.

19 Q. Okay. Then it will be
20 subject --

21 A. It's private information, from
22 my perspective, and I think it's
23 competitive information from the
24 perspective of my employer.

25 Q. Okay. Then subject to the

1 L. Allen
2 confidentiality agreement, we'll treat
3 this is an attorneys' eyes only.

4 Can we please have the
5 information?

6 MR. BEHA II: Objection.

7 A. I'm not willing to answer that
8 question.

9 Q. Okay. Do you receive stock
10 options from Marsh & McLennan?

11 A. I may have at -- in the past. I
12 have not recently.

13 Q. Do you still own Marsh &
14 McLennan stock?

15 A. Yes, I believe I own some Marsh
16 & McLennan stock.

17 Q. Do you know what business Marsh
18 & McLennan is in?

19 A. It's in a series of different
20 businesses, including insurance brokerage
21 and related matters, as well as consulting
22 and other matters.

23 Q. Do you know whether Marsh &
24 McLennan places directors and officers
25 insurance?

1 L. Allen

2 A. I don't have specific knowledge
3 of that. I would think that they may, but
4 I -- I don't have specific knowledge of
5 that.

6 Q. I've marked Exhibit 1. We will
7 call it Allen 1 -- we should call it
8 Allen 1. We will fix it later -- a letter
9 on Morrison & Foerster stationary. And
10 it's five pages long, including an
11 exhibit.

12 Are you familiar with this
13 letter?

14 A. Yes.

15 Q. This is your retention letter in
16 this matter?

17 A. Yes.

18 Q. Prior to July 9, 2018, was NERA
19 retained by Morrison & Foerster or
20 BlackBerry in connection with any matters?

21 MR. BEHA II: Objection.

22 MR. BROWER: Are these relevance
23 objections? Because those are
24 withheld until trial.

25 MR. BEHA II: This objection --

1 L. Allen
2 and we may need to step out and
3 discuss it, but -- but some
4 engagements may be privileged.

5 MR. BROWER: Okay.

6 A. I'm sorry. Can you --

7 Q. Do you need the question read
8 back?

9 A. Yeah.

10 Q. Sure.

11 The question was, prior to July
12 9, 2018, have NERA -- has NERA been
13 retained by Morrison & Foerster or
14 BlackBerry?

15 A. NERA's worked with or been
16 engaged on matters involving Morrison &
17 Foerster. I don't know if they're
18 technically retained by Morrison &
19 Foerster. I don't know about BlackBerry.

20 Q. Okay. Do you know how many
21 matters NERA has worked for Morrison &
22 Foerster?

23 A. I do not.

24 Q. Do you know in what capacity?

25 A. In what capacity ever?

1 L. Allen

2 Q. NERA has worked for Morrison &
3 Foerster?

4 A. I may have recollection of
5 specific instances where I believe
6 Morrison & Foerster was involved in
7 projects that NERA has worked on, but I
8 don't have a --

9 Q. What are those?

10 A. So there's one project that I
11 recall that I have worked on. It was a
12 ResCap matter that I worked -- I believe I
13 was retained by Morrison & Foerster. They
14 were the ones who contacted me, and I
15 worked with them. I don't know,
16 technically, who the retention was with.

17 And when I say "I," it was
18 really NERA that was retained.

19 Q. Would NERA possess records of
20 how many times it's been retained by
21 Morrison & Foerster?

22 A. I don't know.

23 Q. Okay. You're a managing
24 director --

25 A. I am.

Page 14

1 L. Allen

2 Q. -- of NERA?

3 A. Yes.

4 Q. Can you tell me what your
5 understanding of your retention was by
6 Morrison & Foerster in connection with
7 this matter?

8 A. I was asked to analyze price
9 impact of the case in this matter. That's
10 my understanding.

11 Q. Anything else?

12 A. I think that was -- summarizes
13 what I was asked to do.

14 Q. Okay. Were you asked to analyze
15 market efficiency?

16 A. No, I was not.

17 Q. Have you been, since retention,
18 asked to analyze market efficiency?

19 A. With regard to this matter?

20 Q. Yes, ma'am.

21 A. No.

22 Q. Okay. Have you done any work in
23 connection with analyzing market
24 efficiency in connection with BlackBerry?

25 A. I have reviewed the expert

Page 15

1 L. Allen

2 report of Dr. Feinstein in this matter,
3 which involves his analysis of market
4 efficiency.

5 Q. Just curious, have you ever met
6 Dr. Feinstein?

7 A. I think I have.

8 Q. Now, if you look at the exhibit
9 to the letter, the last page --

10 A. Yup.

11 Q. -- there are five other people
12 listed here; is that correct?

13 A. Yes.

14 Q. Who are these other five people?

15 A. Would you like me to read their
16 names?

17 Q. No. Just what did they have to
18 do with this project?

19 MR. BEHA II: Objection. Vague.

20 Q. What did they have to do with
21 providing services to Morrison & Foerster
22 in connection with BlackBerry?

23 A. They were part of a team that
24 assisted me in doing my analysis in this
25 matter.

Page 16

1 L. Allen

2 Q. Okay.

3 A. Or one, two -- four of them are.
4 I don't recall Alice deBrito assisting me
5 in this matter.

6 Q. Okay. What did Mr. Baez do?

7 A. I don't know specifically what
8 any individuals do. They were part of a
9 team that assisted me in preparing my
10 report.

11 Q. Did you assign them projects in
12 connection with the project?

13 A. Yes. There were specific
14 assignments. I don't have a recollection
15 of who I assigned what. And sometimes it
16 was -- they would all be in my office, and
17 I would say, This is what we need to do.
18 So I didn't assign them, individually,
19 projects. I don't have a recollection of
20 doing that. In some instance, I might
21 have done that, but --

22 Q. Do you recall any instances
23 where you did that?

24 A. I don't really know.

25 Q. What projects did you assign in

Page 17

1 L. Allen

2 connection with doing the work you did
3 analyzing price impact?

4 A. My report summarizes all of the
5 work that I did in this project. And this
6 was a team of people that assisted me. I
7 don't -- I don't have a specific
8 recollection.

9 MR. BROWER: Allen Number 2.
10 (Allen Exhibit 2, Expert Report
11 of Lucy P. Allen, marked for
12 identification, as of this date.)

13 Q. Before I ask a -- you were
14 retained on July 9.

15 Did you have any discussions
16 with anyone at Morrison & Foerster before
17 July 9 about working on this case?

18 A. Yes.

19 Q. When did you first start having
20 conversations with someone at Morrison &
21 Foerster about working on this case?

22 A. I believe, in March of this
23 year.

24 Q. Did you ever speak to anyone at
25 BlackBerry either before -- either --

Page 18

1 L. Allen
2 after March of 2018?
3 A. Before preparing my report?
4 Q. Before speaking for the first
5 time to someone at Morrison & Foerster
6 about this case?
7 A. Oh, I'm sorry.
8 Q. Let me rephrase that.
9 Prior to March 2018, did you
10 ever have any contact with anyone at
11 BlackBerry -- let's start there.
12 A. Not with regard to this case.
13 Q. I understand.
14 How about for other purposes?
15 A. Not that I recall, no.
16 Q. Do you know how many employees
17 of NERA are former employees of
18 BlackBerry?
19 A. I do not.
20 Q. You do not.
21 Do you know Mr. Luis Vitoria?
22 A. I don't believe so.
23 Q. He's the head of business
24 resiliency management at Marsh & McLennan.
25 Do you know how many other Marsh

Page 19

1 L. Allen
2 & McLennan employees are former employees
3 of BlackBerry?
4 A. I do not know.
5 Q. Now, after or during -- or after
6 March of 2018, when you were contacted in
7 connection with this project, did you
8 speak to anyone from BlackBerry?
9 A. Not before preparing my report
10 in this matter.
11 Q. Okay. After you started
12 preparing your report, after March of
13 2018, did you ever speak to anyone from
14 BlackBerry?
15 A. The only recollection I have of
16 speaking with someone from BlackBerry was
17 this week.
18 Q. Okay. Who did you speak with?
19 A. Shelia Pierce.
20 Q. Who's in-house counsel?
21 A. Correct, or that's my
22 understanding.
23 MR. BEHA II: I'm just going to
24 caution Ms. Allen not to discuss the
25 substance.

Page 20

1 L. Allen
2 MR. BROWER: I wasn't going to
3 ask.
4 MR. BEHA II: I wasn't
5 suggesting you were. I'm just going
6 to caution Ms. Allen not to discuss
7 the substance of her conversation with
8 Ms. Pierce.
9 Q. When did you actually start
10 working on your report?
11 A. I don't recall a specific date,
12 but I believe it would have been soon
13 after being contacted about this matter.
14 Q. So you were contacted in March,
15 started working on your report, and then
16 retained in July; is that the chronology?
17 A. Well, you've been saying I was
18 retained in July.
19 Q. That's what the letter says.
20 A. The letter was dated July. I am
21 not a lawyer. I don't have a legal
22 opinion of when we're technically
23 retained. It was my understanding at some
24 point that we were retained in this matter
25 and should begin working on this matter.

Page 21

1 L. Allen
2 I don't know -- that may not have been --
3 my recollection is it would have been
4 before this letter was actually signed.
5 Q. Okay. Were you contacted
6 directly in connection with this matter,
7 or was someone else at NERA contacted?
8 A. I believe I was contacted
9 directly.
10 Q. And did you provide any
11 preliminary report or preliminary
12 conclusions to anyone at Morrison &
13 Foerster before July 9, 2018?
14 A. I don't have a recollection of
15 what happened before or after this
16 particular document was signed. As I
17 said, I don't -- this particular retention
18 letter is a little bit different than
19 NERA's standard retention letter.
20 So I have some recollection that
21 there was some back-and-forth with NERA's
22 counsel, and Morrison & Foerster about the
23 -- to the extent we have a retention
24 letter, that's different than the standard
25 one that we use. We usually get some sort

1 L. Allen
 2 of approval from counsel that it is --
 3 meets the standards.
 4 So I don't have a specific
 5 recollection, but this letter looks
 6 somewhat different than a typical letter.
 7 So my guess is that's what would have
 8 happened. So I -- I think there might
 9 have been some back-and-forth on this
 10 letter, and the timing of when this is
 11 dated doesn't really tell me anything
 12 about when we were doing the work, is what
 13 I'm saying.
 14 Q. Do you recall what the issue was
 15 that resulted in a letter that's not the
 16 same as your typical NERA engagement
 17 letter?
 18 A. No.
 19 Q. Were you involved in those
 20 discussions?
 21 A. I may have been. The typical
 22 process is we send someone a letter
 23 saying, This is our standard letter.
 24 Oftentimes there are some, Well we have
 25 our own standard letter. Then we say, If

1 L. Allen
 2 you have your own standard letter, we need
 3 to send that to our counsel to see if they
 4 approve it. So there's some
 5 back-and-forth, but I don't have a -- that
 6 would be my -- sort of my general
 7 recollection.
 8 Q. You can't recall any particular
 9 issue or problem that arose between
 10 Morrison & Foerster and NERA with respect
 11 to the scope of the retention?
 12 A. I don't particularly know.
 13 Q. At what point in time were you
 14 told to prepare an actual report?
 15 A. It was my -- it's my
 16 recollection that that was my assignment
 17 to begin with, that that was -- that's my
 18 recollection. That's what I was assigned
 19 to do from the start.
 20 Q. Let's look at Exhibit 2, which
 21 is your report, correct?
 22 A. Okay.
 23 Q. And you testified earlier that
 24 it says what you did. Go to page 5. It
 25 says your "materials considered," right?

1 L. Allen
 2 A. Yes.
 3 Q. Okay. And it says you
 4 considered. So these are the documents
 5 you considered personally?
 6 A. Yes. "In preparing this report,
 7 I considered the following materials."
 8 Q. What materials did other members
 9 of your staff consider in preparing this
 10 report?
 11 A. All of the materials --
 12 MR. BEHA II: Objection. No --
 13 objection. I don't think that that is
 14 subject to disclosure.
 15 MR. BROWER: What they
 16 considered in doing the report that
 17 assisted her in doing the report? Are
 18 you joking?
 19 MR. BEHA II: What she
 20 considered --
 21 MR. BROWER: Are you directing
 22 her not to answer? I'm not going to
 23 debate.
 24 Are you directing her not to
 25 answer?

1 L. Allen
 2 MR. BEHA II: I am not. I
 3 object to the question.
 4 MR. BROWER: Okay.
 5 Q. Do you need the question back?
 6 A. This is meant to be a
 7 comprehensive list of all the materials
 8 that were considered in preparing the
 9 report.
 10 Q. By you and your staff?
 11 A. Correct.
 12 Q. Now, if you go to item C --
 13 A. Yes.
 14 Q. -- it says, "Report of Steven
 15 P. Feinstein, dated May 11, 2018,
 16 including exhibits, appendices and
 17 materials relied upon.
 18 You reviewed every document that
 19 is referenced in Dr. Feinstein's report?
 20 And by "you," you or members of your
 21 staff?
 22 A. No. This is a list of -- this
 23 doesn't say that and, no, I didn't review
 24 everything. This is a list of all the
 25 materials that were considered.

Page 26

1 L. Allen
2 Q. What didn't you review reference
3 to Dr. Feinstein's report?
4 A. I would have to look. I didn't
5 review every word of every document that's
6 referenced. This is a comprehensive list
7 of all the materials that were considered.
8 Q. I understand.
9 A. So, for example --
10 Q. May I ask what you're looking
11 at?
12 A. Dr. Feinstein's report.
13 Q. Okay.
14 A. Just so I can look at what his
15 materials considered were.
16 I mean, I believe he considered
17 SEC filings. And I --
18 MR. BROWER: Hold on a second.
19 Why don't we mark Dr. Feinstein's
20 report, just so we have it as an
21 exhibit. I appreciate you brought
22 one. This is just to keep the record
23 clear.
24 (Allen Exhibit 3, document
25 headed Report on Market Efficiency,

Page 27

1 L. Allen
2 marked for identification, as of this
3 date.)
4 Q. We've marked Feinstein
5 Exhibit 3, which has been previously
6 marked Feinstein Exhibit 1, by the way.
7 So you were about to say? I'm
8 sorry I interrupted.
9 MR. BEHA II: This is Allen
10 Exhibit 3?
11 MR. BROWER: Yes, Allen
12 Exhibit 3, Feinstein Exhibit 1.
13 A. So, for example, Dr. Feinstein
14 lists a number of SEC filings, or Form
15 6-Ks. I have considered the Form 6-Ks. I
16 have not read all of them in their
17 entirety.
18 Q. Do you know how many were issued
19 during the class period involved here?
20 A. Well, I think he has a list of
21 them. I suppose I could count, but I
22 don't, as I sit here, know the answer to
23 that, no.
24 Q. Do you know which ones you read
25 all or part of?

Page 28

1 L. Allen
2 A. I don't particularly.
3 Q. Did you read the ones that were
4 issued during the class period?
5 A. I didn't read in their entirety
6 all of the ones that were issued in the
7 class period.
8 Q. Did you read any that were
9 issued outside the class period, either
10 before or after the class period?
11 A. I looked at parts of them that
12 were issued outside of the class period.
13 Q. Which ones did you review that
14 were outside the class period?
15 A. Well, I do recall looking at the
16 one right before and right after the end
17 of the class period.
18 Q. Why did you believe it was
19 unnecessary to review the entirety of
20 documents that Dr. Feinstein reviewed?
21 A. Well, there are a number of
22 reasons for that. One, I don't believe
23 that Dr. Feinstein reviewed these
24 documents in their entirety. Two,
25 Dr. Feinstein was doing an analysis of

Page 29

1 L. Allen
2 market efficiency. I was not asked to do
3 an analysis of market efficiency.
4 Q. And so the public documents
5 issued by the company have no relevance to
6 the question of price impact?
7 MR. BEHA II: Objection.
8 Misstates the testimony.
9 MR. BROWER: There was a
10 question mark at the end.
11 A. No, I think they do have
12 relevance. I think they're public
13 documents, which is one of the reasons I
14 did consider those documents.
15 Q. But you only considered parts of
16 them?
17 A. I didn't -- I considered all of
18 the documents. I just didn't read every
19 part of every document.
20 Q. How did you choose what to read
21 or not read?
22 A. Well, depending on -- I can tell
23 you a few things that I specifically
24 looked for in the documents and a few
25 things that I focused on. I don't recall

1 L. Allen
2 all of the reasons I have looked into the
3 filings.

4 So there are a number of --
5 there would be a number of different
6 reasons, in the course of my analysis in
7 this case, that I may have looked at one
8 filing or another at various points in
9 time.

10 Q. Why don't you tell me the
11 reasons you would look at parts of
12 documents, you would read parts of
13 documents?

14 A. In general, why does one read
15 parts of documents rather than review an
16 entire document?

17 Q. No. No. Let me see.
18 What you said was -- I asked,
19 "How do you choose what to read or not
20 read?"

21 And you said, "I can tell you a
22 few things I specifically looked for in
23 the documents."

24 What was it you specifically
25 looked for in the documents?

1 L. Allen

2 A. Well, as I'm saying, I think
3 there were a number of times in the course
4 of my work in this matter that I went to
5 the SEC filings of the company to see --
6 to look for different sorts of information
7 for different questions I had at different
8 points in time.

9 Q. How do you find those things
10 without reading the whole document?

11 A. Oh, there are a number of ways
12 for finding those things. For one, the
13 documents are often organized in a
14 consistent manner. So I have some
15 familiarity with the organization. I also
16 use search terms to look for them. So,
17 for example, one of the issues in this
18 matter involves revenue recognition
19 methodology. So one of the things that I
20 did is look at how the company explained
21 their revenue recognition.

22 So sometimes I may review an
23 analyst's report, for example, and they
24 may use a term or they may have a number,
25 and I'm not sure how they've got it, and

1 L. Allen

2 I'm not sure -- you know, they're saying
3 it came from the company or from one of
4 the filings. And then I will go back and
5 sometimes I search for that specific
6 number or I search for a specific term or
7 I -- there are lots of -- in analyzing
8 price impact, as I've done in this case,
9 I'm reviewing a lot of information, and
10 I'm trying to understand how, you know --
11 so sometimes, for example, a company on a
12 conference call might say things that's
13 little bit shorthand, and I might need to
14 understand what are those terms.

15 So there are lots of reasons why
16 I might go back, and it's possible to
17 search for specific numbers or tables or
18 find the financial statements. There's
19 also discussions that can be useful.

20 Q. Okay. Did you search all of the
21 documents for the term "BB10"?

22 A. Did I do a search for all
23 documents?

24 Q. No, for all the public
25 documents.

1 L. Allen

2 A. I don't believe so, no, or I
3 don't recall doing that.

4 Q. Did you do you a search of all
5 the public documents for the term "Z10"?

6 A. I don't recall doing that, no.

7 Q. Do you know whether anyone on
8 your team read every single public
9 document, corner to corner?

10 A. I did not ask anyone on my team
11 to do that, and I don't believe anyone on
12 my team would have done that.

13 Q. No one told you they did?

14 A. Nobody told me they did.

15 Q. Okay. Let's go to E on your --
16 on page 5 of your report.

17 "I considered the following
18 materials, quote, analyst reports on
19 BlackBerry and the communications
20 equipment industry from Thomson Reuters
21 and documents produced in discovery.

22 Now, if you go back to
23 Dr. Feinstein's report, starting on
24 page 44 there's a list of analyst reports
25 that continues to page 55.

1 L. Allen
2 Do you see that?
3 A. Yes.
4 Q. Did you read all of those
5 analyst reports?
6 A. I don't believe so, no.
7 Q. How did you -- well, you didn't
8 provide a list, did you, of the analyst
9 reports you did read? Have you?
10 A. I provided all of the analyst
11 reports that I considered.
12 Q. Did you provide a list?
13 A. I provided the reports
14 themselves.
15 Q. Okay. So does that include
16 documents that were produced by BlackBerry
17 or documents from your files?
18 A. It includes all the documents,
19 all the analyst reports that I considered.
20 Q. But you didn't provide a list
21 like Dr. Feinstein did?
22 A. I provided the reports
23 themselves.
24 Q. That's a yes-or-no question.
25 Did you provide a list like

1 L. Allen
2 Dr. Feinstein did?
3 A. I don't believe I provided a
4 list like Dr. Feinstein did. I provided
5 all the analyst reports themselves.
6 Q. Did you provide a list of
7 Securities and Exchange Commission
8 filings, like Dr. Feinstein did, that you
9 write?
10 A. I don't believe Dr. Feinstein
11 provided a list of SEC filings that he
12 read. He provided a list that he says of
13 filings that he considered. I don't
14 believe he said he read these filings. So
15 I did not provide a list of filings. I
16 believe I provided the filings themselves
17 that were considered -- that I considered.
18 MR. BROWER: We call for
19 production. That wasn't produced to
20 us.
21 MR. BEHA II: We can discuss
22 that off the record.
23 Q. Did you provide those documents
24 to Morrison & Foerster, or did they
25 provide them to you?

1 L. Allen
2 MR. BEHA II: Objection.
3 MR. BROWER: Basis?
4 MR. BEHA II: Based on the form
5 of the question. It's not an
6 either/or. It's not an either/or
7 situation.
8 Q. You produced the documents,
9 Ms. Allen. You didn't produce them to
10 plaintiffs, did you, directly?
11 A. I'm not sure what documents
12 you're talking about, but --
13 Q. Your documents. The SEC filings
14 that you read.
15 A. Both -- both --
16 Q. Did you produce them to
17 plaintiff?
18 A. Both my report and
19 Dr. Feinstein's report lists materials
20 considered. Not materials read. I have
21 produced the materials considered, which
22 included the materials that Dr. Feinstein
23 considered. So it's my understanding that
24 Dr. Feinstein produced the materials that
25 he considered.

1 L. Allen
2 And I believe we have turned
3 over -- along with the additional
4 materials that I considered that
5 Dr. Feinstein didn't consider, I think I
6 also produced back the same materials that
7 Dr. Feinstein considered. So there are a
8 number of materials that Dr. Feinstein
9 considered that are also the same as the
10 materials that I considered.
11 It was my understanding that we
12 produced everything that I had considered,
13 and much of it was the same as what
14 Dr. Feinstein had considered.
15 Q. When you say "turned over,"
16 turned over to who?
17 A. I believe it was turned over to
18 Morrison & Foerster.
19 Q. What's the difference between a
20 document you consider and a document you
21 read?
22 A. Considered is a document that
23 was considered in the process of the work.
24 It's a document you had and considered
25 whether it was relevant or not and

1 L. Allen
2 considered whether to use it.
3 A document read -- so I think
4 there are -- is something you actually --
5 you can consider information without
6 reading it or reading it in its entirety.
7 So It's a broader category, is
8 my understanding. And my understanding of
9 the federal rules is that's what are asked
10 for in an expert report, is a more
11 inclusive category, not just what is the
12 materials relied upon, but what were all
13 the materials considered.
14 Q. So you can consider a document
15 without reading it?
16 A. That's correct.
17 Q. Okay. So with respect to, say,
18 the analyst reports listed in
19 Dr. Feinstein's report that you claim you
20 considered all of, is that correct, you
21 considered all of them?
22 A. That's correct.
23 Q. You didn't read them all?
24 A. I don't believe I read every
25 word of every document. I do believe I

1 L. Allen
2 looked at all the analyst reports.
3 Q. And when you look at something,
4 what process is that? You look at the
5 front page and see who the analyst is and
6 a date?
7 Do you go into the report? Do
8 you scan it looking for information?
9 MR. BEHA II: Objection.
10 A. In the process of doing my work
11 in this case, I looked at the analyst
12 reports many, many times in many different
13 ways. So I looked at them both online,
14 meaning we have electronic versions of
15 them. And so sometimes I would look at a
16 specific one and look for a specific one,
17 and other times I looked over a specific
18 time period.
19 I also had hard copy versions of
20 the analyst reports and I -- in
21 chronological order, and I looked through
22 them. So sometimes I looked through them
23 chronologically, other times I looked at
24 them at a particular point in time.
25 So I went through the analyst

1 L. Allen
2 reports many, many times in the course of
3 my work in this matter.
4 Q. Did you keep an electronic
5 folder of all the analyst reports you
6 considered?
7 A. The analyst reports we have as
8 electronically, as well as I had them
9 printed.
10 Q. I understand. Was all of
11 them -- you just said -- you said you
12 could look at them online, on their
13 computer.
14 Did you have them in a folder,
15 some kind of electronic folder so they're
16 all together, not mixed up with Intel
17 analyst reports or IBM analyst reports or
18 Ford analyst reports?
19 Did you have them altogether?
20 A. The materials that were
21 considered in this project were in a
22 folder that related to this project.
23 Q. An electronic folder?
24 A. Yes, most of them we had -- I
25 believe, most of it we had electronically.

1 L. Allen
2 Q. Okay. How do you decide what
3 analyst report to use or not use?
4 A. I'm not sure what you mean by
5 "use or not use."
6 Q. Well, your answer was -- let's
7 go back a little bit.
8 I believe your testimony was
9 that you considered them all and then
10 decided which ones to use or not use.
11 A. I don't believe that was my
12 testimony.
13 Q. Okay. We will look back at that
14 during the break.
15 MR. BROWER: Can you mark the
16 record here so I can come back.
17 Q. Next category, G: BlackBerry
18 press releases, conference transcripts,
19 and news stories from Factiva and
20 Bloomberg, LLP.
21 Did you read all of the
22 newspaper stories about -- or news stories
23 about BlackBerry during the class period?
24 A. I didn't read every part of
25 every story, no.

1 L. Allen
2 Q. How did you decide what parts of
3 a story to read?

4 A. It depends on the specific issue
5 that I am looking at in that particular
6 instances, that part of the analysis.

7 Q. Give me an example.

8 A. So, for example, one of the --
9 one of the plaintiffs' allegations in this
10 case is that statements made on April 12
11 is an alleged misrepresentation. So one
12 of the things I did is look at all the
13 news that was released on that date to see
14 -- look for timing of that announcement
15 or, rather, a discussion of that
16 announcement, in other words, to try to
17 get timing of that.

18 And there was some similar
19 information released regarding that
20 statement the day before, so I looked at
21 news stories related to that and searched
22 through again, to get timing to get
23 information that was release related to
24 this.

25 Q. So let me understand.

1 L. Allen
2 MR. BEHA II: I'm sorry. Please
3 let her finish her story.

4 MR. BROWER: I think she was.

5 MR. BEHA II: I don't believe
6 so.

7 Q. Are you done or do we keep
8 going?

9 A. I sort of lost focus on that.

10 Q. So I understand when you were
11 looking at news stories, you looked at
12 disclosures or events alleged in the
13 Complaint and then looked at the news
14 stories around that date?

15 A. I think that's generally
16 correct, for a number of reasons,
17 including to understand the timing of when
18 information was released and whether that
19 same information was released previously
20 or.

21 Q. With respect to the news stories
22 that you read around those dates, did you
23 read the entirety of those news stories?

24 A. I don't have a specific
25 recollection but, in general, if -- you

1 L. Allen
2 know, there is a news story released which
3 has come up because it mentions the
4 company, and so that's in our search of
5 news stories, but it turns out to be about
6 something completely unrelated, and I can
7 tell from either the headline or the first
8 paragraph that it's completely unrelated,
9 then I am unlikely to continue to read the
10 entire story.

11 So I don't -- I don't have a
12 specific recollection of that, but that
13 would be my general practice.

14 Q. Okay. I need to go back on
15 something. I apologize.

16 With respect to the analyst
17 reports that were searchable, did you
18 search -- strike that.

19 Did you search every 10-K --
20 strike that, sorry -- every SEC filing for
21 the term "Q10"?

22 A. I don't have a recollection of
23 doing that, no.

24 Q. With respect to the news
25 stories, they were searchable as well,

1 L. Allen
2 were they not?

3 A. The news stories were searchable
4 and they were obtained through a search.

5 Q. Okay.

6 A. So we did a search to obtain
7 news stories.

8 Q. Could you then search the body
9 of the news stories once you had assembled
10 them, retrieved them, however --

11 A. Sure.

12 Q. Did you search all of those
13 documents for every mention of the term
14 "BB10"?

15 A. I don't recall doing that, no.

16 Q. Did you search every one of
17 those news stories retrieved for the
18 phrase "Q10"?

19 A. I don't recall searching all of
20 them, no.

21 Q. Did you search all the news
22 stories for the term "C 10"?

23 A. I don't have a recollection of
24 doing that, no.

25 Q. Do you believe news stories are

1 L. Allen
2 a useful avenue to pursue in connection
3 with analyzing price impact?

4 MR. BEHA II: Objection to form.

5 A. I think they can be a useful
6 avenue. One of the things they can tell
7 you is what time information is released
8 to the market, what information is public
9 at various points in time. So that's -- I
10 think those are -- can be important uses
11 of news stories.

12 Q. Have you, in the past, believed
13 that news stories were not helpful?

14 A. Well, I can certainly think of
15 instances where something that is in a
16 news story may not be helpful in some
17 circumstance. I think that in -- I can
18 imagine there are circumstances where news
19 stories are not helpful to explain certain
20 issues.

21 Q. In other cases in which you've
22 testified, have you testified that you did
23 not use news stories to analyze price
24 impact?

25 A. I don't have a specific

1 L. Allen
2 recollection of that. I may have analyzed
3 price impact and not used news stories,
4 but I don't particularly have a
5 recollection of that, no.

6 Q. Why would you analyze price
7 impact without looking at news stories?

8 A. It may have been possible to
9 analyze price impact without looking at
10 news stories. I don't have a recollection
11 of that, but -- so, for example, if it's
12 -- one of the reasons, I think I just
13 said, it's helpful to look at news
14 stories, it can help you pin down the
15 timing of when information is public.

16 If you have some other way of
17 pinning down that information or you know
18 that through some other circumstance, then
19 it may not be necessary to use news
20 stories.

21 Q. What would be the circumstances
22 where news stories would be helpful versus
23 those where they would not?

24 A. I don't know. I'm not sure I
25 can think of all the instances.

1 L. Allen
2 Q. With respect to your report,
3 Allen Exhibit 2, what was your
4 understanding of plaintiffs' allegations?

5 A. I have a five-page summary of
6 allegations in my report. So I have -- I
7 would -- I have tried to accurately
8 represent my understanding of plaintiffs'
9 allegations in my report in these five
10 pages that summarize plaintiffs'
11 allegations.

12 Q. Okay. Then let's go a little
13 further into the report. On page 24 --

14 A. Okay.

15 Q. -- the middle of the second
16 bullet, you state: "Further, I find that,
17 despite the alleged misrepresentation that
18 purportedly assured the market of
19 BlackBerry 10's success," and you go on.

20 The word "assured," where did
21 you get that from?

22 A. I'm sorry. I don't even see
23 where you are.

24 Q. Second bullet point, middle of
25 the --

1 L. Allen
2 A. Page 24?

3 Q. Yes. Sentence starting with
4 "further."

5 A. The word "assured" is not in
6 quotes. I have some other -- "asserted"
7 is, I believe, in quotes.

8 Q. So assured is your word?

9 A. It is my word here, yes,
10 correct. It's my understanding that's
11 what the plaintiffs say. That may be what
12 -- it may be that plaintiffs also used the
13 word "assured." I don't have a specific
14 recollection.

15 Q. Would you be shocked to know
16 that the word "assured" doesn't appear
17 anywhere in plaintiffs' 91-page complaint?

18 MR. BEHA II: Objection.

19 Q. You can answer the question.

20 MR. BEHA II: It's not a
21 question. It's your testimony.

22 MR. BROWER: I asked her if she
23 would be shocked.

24 A. I'm not shocked. I don't have
25 that word in quotes. I do have the word

1 L. Allen

2 "asserted" in quotes.

3 Q. Okay. Can you go to page 27,
4 the last paragraph on the page.

5 You used the word "assured"
6 again. Again, that's your
7 characterization of plaintiffs'
8 allegations?

9 A. I do not have quotes around that
10 word; that's correct.

11 Q. So that's your characterization
12 of plaintiffs' allegations?

13 A. I think plaintiffs, as I've
14 quoted, used the word "asserted." I don't
15 have a recollection of them using the word
16 "assured."

17 Q. So --

18 A. I think -- but -- now that
19 you've asked that, I don't know. I could
20 go back and look and see what --

21 Q. What the complaint actually
22 says?

23 A. I could see what the complaint
24 actually says and see if the word
25 "assured" is in. I don't have a

1 L. Allen

2 recollection that plaintiffs particularly
3 used the word "assured." And I think if
4 they had used the word "assured," I may
5 have put quotes around it. I try to put
6 quotes around words that were, you know,
7 specific quotes. I try to be clear.

8 Q. Now, you used the word "assured"
9 a lot.

10 If you go to page 28, the first
11 line says, "Despite the alleged
12 misrepresentation that purportedly assured
13 the market of the BlackBerry 10 success,"
14 later in the same paragraph you say, "The
15 enormous range of variation in analyst
16 priced targets for Blackberry stocks after
17 the alleged misrepresentations, despite
18 the alleged misrepresentations,
19 purportedly assured the market."

20 Go to page 32, paragraph 51.
21 Same thing. You use the word "assured."
22 Page 33, paragraph 52, you use the word
23 "assured." I could go on and on. There's
24 about a hundred uses of the word "assured"
25 in your report.

1 L. Allen

2 A. I think I'm just --

3 MR. BEHA II: Hold on. That's
4 not a question.

5 Q. Where did you get the word
6 "assured" from?

7 MR. BEHA II: I move to strike
8 Mr. Brower's testimony.

9 MR. BROWER: Okay.

10 Q. Where did you get the word
11 "assured" from that you use all over your
12 report?

13 A. I think I used the same phrase
14 repeatedly. I'm analyzing the same
15 alleged misrepresentations repeatedly in
16 my report, and I repeat the phrase and. I
17 think I've answered the question about the
18 word "assured."

19 Q. That it is your characterization
20 of plaintiffs' allegations or is it what
21 plaintiffs allege?

22 MR. BEHA II: Objection to form.

23 A. I think I answered the question.
24 I believe that I have tried to put quotes
25 around the words when it is the exact

1 L. Allen

2 words the plaintiffs are using. I did not
3 put quotes around the word "assured." I
4 have quoted specifically what plaintiffs
5 have said. I believe they have used the
6 word "asserted." I don't have a
7 recollection of them using the word
8 "assured."

9 Q. So plaintiffs used the word
10 "asserted," so let's read a sentence with
11 that.

12 Paragraph 51, "I find despite
13 the alleged misrepresentation that
14 purportedly asserted the market of
15 BlackBerry 10's success," is that your
16 recollection of what plaintiffs allege?

17 A. I'm sorry?

18 MR. BEHA II: Objection.

19 Q. Are you trying to substitute the
20 word "asserted" for "assured," where you
21 have used the word "assured"?

22 A. I don't think I'm doing that,
23 no.

24 Q. Okay. So go back to the word
25 "assured" versus whatever word plaintiffs

Page 54

1 L. Allen
2 used, were the allegations relating to
3 what you claim plaintiffs -- strike that.
4 When you decided to use the word
5 "assured" throughout your report, was that
6 your interpretation of plaintiffs'
7 allegations?

8 MR. BEHA II: Objection. Asked
9 and answered.

10 A. I think you asked me that
11 question.

12 Q. I asked you again.

13 A. That's now at least the third
14 time, and I have the same answer.

15 Q. I'm trying to get a yes or no.
16 I haven't gotten one yet.

17 MR. BEHA II: You don't get to
18 tell her how to answer your questions.

19 A. I have a five-page summary of
20 plaintiffs' allegations in this case. And
21 I have -- there's a lengthy complaint in
22 this case. I have summarized plaintiffs'
23 allegations, and I have tried to quote
24 them with actual quotes when I'm using the
25 specific words that plaintiffs used. And

Page 55

1 L. Allen
2 I have tried to be clear of what
3 plaintiffs are alleging.

4 I don't recall plaintiffs using
5 the word "assured." I believe plaintiffs
6 use the word "asserted."

7 Q. Just to be clear, the choice of
8 the word "assured" was your choice?

9 A. I don't have a recollection of
10 plaintiffs using the word "assured," so I
11 believe it's my choice, yes.

12 Q. Okay.

13 A. But it's possible that
14 plaintiffs have used the word "assured,"
15 and I -- I don't recall.

16 MR. BROWER: Can we take a
17 two-minute break -- wait. Wait. Let
18 me just check something. I've been
19 waiting for some information.

20 THE WITNESS: I wouldn't mind a
21 break.

22 MR. BEHA II: Why don't we go
23 ahead and take a break. It's been
24 about an hour.

25 THE VIDEOGRAPHER: The time is

Page 56

1 L. Allen
2 11:05. We are going off the record.
3 (Recess taken.)

4 THE VIDEOGRAPHER: The time is
5 11:22. We're back on the record.

6 BY MR. BROWER:

7 Q. Ms. Allen, can you go back to
8 your report, Exhibit 2. There's no page,
9 but -- are you using a different copy than
10 the marked one?

11 A. I can use the marked one.

12 Q. It's in your -- it's page 68 of
13 70 from the printout. You'll see that at
14 the top there.

15 A. Yes.

16 Q. This is expert reports,
17 deposition testimony in the last four
18 years.

19 Is the Dell case here? Did you
20 testify in the Dell case that you -- you
21 were asked to do a price impact report
22 there as well, right?

23 A. I think it was price impact.

24 Q. Did you testify that you did not
25 look at news stories in that case?

Page 57

1 L. Allen

2 A. I think I considered news
3 stories in the Dell case, if I recall. I
4 recall considering news stories.

5 MR. BROWER: Mark this 4.
6 (Allen Exhibit 4, Deposition of
7 Lucy Allen, marked for identification,
8 as of this date.)

9 A. Are you asking news stories
10 about the company Dell or news stories in
11 general or?

12 Q. About Dell.

13 A. About Dell?

14 Q. Uh-huh.

15 A. I do recall considering some
16 news stories, because I believe I talked
17 about Wall Street Journal stories. I have
18 some recollection.

19 Q. Take what's been marked
20 Exhibit 4.

21 A. Sorry.

22 Q. That's fine. Can you go to page
23 -- it says "45...48," because it's a
24 mini-script of a deposition transcript.
25 It's page 14.

1 L. Allen
 2 If you look at the top, the
 3 runner at the top, it's page 14.
 4 A. Okay.
 5 Q. Go to the part that says
 6 page 47, the lower left.
 7 A. Okay.
 8 Q. If you go to line 10. You can
 9 read it to yourself. You don't have to
 10 read it out loud.
 11 A. Do you have a question?
 12 Q. Yeah. Is that still your view,
 13 your answer to the question on line 10 of
 14 page 47 of the transcript?
 15 MR. BEHA II: Where she's
 16 talking about what is helpful in
 17 understanding what is affecting Dell's
 18 stock price?
 19 MR. BROWER: Yeah.
 20 MR. BEHA II: Okay. Just to be
 21 clear, this is her testimony about her
 22 analysis of Dell's stock price.
 23 MR. BROWER: Well, analyzing
 24 price impact, actually.
 25 MR. BEHA II: Well, it says --

1 L. Allen
 2 A. And I did not agree that that is
 3 what I said. So there's an objection that
 4 that mischaracterizes prior testimony. I
 5 never said that I didn't review the news
 6 stories.
 7 Q. Okay.
 8 A. I then say, on the next page,
 9 that in my materials considered were news
 10 stories and other information. So I did
 11 consider the news stories. I don't
 12 disagree with my testimony here, which is
 13 that, in this matter, one of the things
 14 that was helpful was analyzing what the
 15 analysts were saying. I don't say that it
 16 wasn't helpful to look at news stories and
 17 I don't say that I didn't look at the news
 18 stories. The news stories were in my
 19 materials considered.
 20 Q. Okay. You reviewed analyst
 21 reports here, correct?
 22 A. I don't know what you mean by
 23 "here."
 24 Q. In this case.
 25 A. In which case?

1 L. Allen
 2 MR. BROWER: Why don't we read
 3 it? Let's read it.
 4 Q. Question: "Why did you elect to
 5 review the analyst reports for the class
 6 period and not the news stories?"
 7 "Objection."
 8 The witness -- you, Ms. Allen:
 9 "So in this matter, one of the things I've
 10 been asked to do is analyze price impact,
 11 and it is helpful in understanding what is
 12 affecting Dell's stock price, or the
 13 company's stock price, to review what
 14 analysts are saying about the value of the
 15 stock and how they are valuing the stock.
 16 So I find that analyst reports have
 17 more -- have a focus on some of the issues
 18 that were particularly relevant to this
 19 matter."
 20 Do you believe that's true for
 21 this case as well?
 22 A. So the question is, "Why do you
 23 elect to review the analyst reports and
 24 not the news stories?"
 25 Q. Uh-huh.

1 L. Allen
 2 Q. BlackBerry.
 3 A. I did review analyst reports in
 4 this matter and in the BlackBerry matter.
 5 Q. What else do you find helpful in
 6 addition to analyst reports in determining
 7 price impact?
 8 A. Well, I have a whole report in
 9 this matter that analyzes all of -- that
 10 summarizes all of the work that I did in
 11 analyzing price impact in this matter.
 12 Q. You have a list of things you
 13 considered but now have clarified did not
 14 read corner to corner.
 15 So my question is, what else did
 16 you find helpful that you actually read,
 17 other than analyst reports?
 18 MR. BEHA II: Objection. It
 19 mischaracterizes the testimony.
 20 A. I don't agree with how you
 21 characterized my prior testimony, and I
 22 wish I had said that in the last
 23 deposition, because I did not agree with
 24 that either, and I was not agreeing with
 25 that question.

1 L. Allen

2 So I have found much of the
3 material that I considered useful in my
4 analysis of price impact in this case, and
5 my report in this case summarizes the
6 analysis that I did and what I -- how I
7 went through the analysis.

8 Q. Anything in particular you found
9 useful?

10 A. I don't understand that
11 question.

12 Q. Okay. Did you concentrate -- in
13 your analysis, did you find anything
14 particularly helpful in forming your
15 opinions?

16 A. I don't know how to answer that.
17 I've done an entire analysis of price
18 impact that involved reviewing plaintiffs'
19 allegations in this case, that involved
20 looking at how the price moved in this
21 case, that involved looking at how analyst
22 who covered the stock and valued the
23 stock, how they reacted and how they
24 valued the stock.

25 I looked at -- so there's lots

1 L. Allen

2 of information that I looked at. I don't
3 know how to say what I found particularly
4 helpful.

5 Q. With respect to doing your
6 report, did you make any assumptions in
7 connection with doing your analysis?

8 A. I assume that plaintiffs' claim
9 of market efficiency was correct, so I did
10 the analysis assuming plaintiffs' claim of
11 market efficiency. And I believe I stated
12 that in my report somewhere.

13 Q. I believe you did. Any other
14 assumptions you made, other than that the
15 market for BlackBerry securities during
16 the class period were efficient?

17 A. I don't believe so, no.

18 Q. Do you assume the accuracy of
19 plaintiffs' allegations?

20 A. I assume that plaintiffs are
21 correct that their allegations are
22 misrepresentations.

23 Q. Did you make any other
24 assumptions in connection with doing your
25 report, other than assuming that

1 L. Allen

2 plaintiffs' allegations and
3 misrepresentations are correct and that
4 the market for BlackBerry securities
5 during the class period was efficient?

6 A. So on the first one I'm not --
7 no, I don't have other -- I don't believe
8 I have any other assumptions. And on the
9 first one I'm not -- I mean to the he can
10 at the present time that plaintiffs say
11 that -- I don't have a specific
12 recollection of this happening, but they
13 say that something happened that a
14 statement was made at a particular time.

15 I'm not assuming that plaintiffs
16 are correct in that. I'm looking to see
17 when statements were made or what was
18 actually made. I am assuming that
19 plaintiffs are claiming that the company
20 made allegedly fraudulent statements. I
21 am not -- I'm taking that he as a given
22 but I'm looking at what the company
23 actually said, not -- I'm not assuming
24 that how plaintiffs characterized it is
25 correct, if that makes sense.

1 L. Allen

2 Q. Well, let me try and clarify.

3 Had plaintiffs alleged the
4 defendants said the sky was blue on a
5 Tuesday, you checked to see if the
6 defendants said the sky was blue on that
7 Tuesday and not on Wednesday?

8 A. That's correct.

9 Q. Okay.

10 A. But I'm not -- I'm taking as
11 given that plaintiffs are correct that
12 they shouldn't have said the sky was blue,
13 if that's what the plaintiffs are saying.

14 Q. Okay. Fair enough.

15 A. That's what I'm --

16 Q. So the statements that are
17 accurately quoted --

18 A. I'm not saying whether
19 plaintiffs should or shouldn't have said
20 anything. I'm assuming -- I mean, not
21 that BlackBerry should or shouldn't have
22 said anything. I'm assuming that
23 plaintiffs are correct that BlackBerry
24 said or did the wrong things. So I'm
25 analyzing price impact of those allegedly

1 L. Allen
2 wrong things.
3 Q. Okay. What does price impact
4 mean?
5 A. In the context in which I've
6 been asked to analyze it, I think price
7 impact can mean whether something impact
8 the stock price. Here I've been asked to
9 analyze whether the alleged
10 misrepresentations impacted the stock
11 price when made.
12 Q. When you say "in the context,"
13 that's as an economist?
14 A. In the context of a securities
15 class action, my understanding of the
16 relevant legal question is, is the price
17 impact of the alleged misrepresentations.
18 Q. Okay. And what does that mean?
19 I'm trying find out what does "price
20 impact" mean?
21 A. Oh, whether there was an effect
22 on the stock price.
23 Q. When you say an "effect" on the
24 stock price, what does that mean?
25 A. Whether it impacted the stock

1 L. Allen
2 price. Whether if not for the alleged
3 misrepresentation, the stock price would
4 have been different or it moved the stock
5 price.
6 Q. So it's your view that in order
7 to show price impact, the price of the
8 stock must move?
9 A. That's not what I said, no.
10 Q. Okay. "When you say an effect
11 on the stock price, what does that mean?"
12 You answered: "Whether it
13 impacted the stock price -- whether if not
14 for the alleged misrepresentation, the
15 stock price would have been different or
16 it moved the stock price."
17 That was your answer.
18 My question was, "So your view
19 is that, in order to show price impact,
20 the price of the stock must move?"
21 You said no.
22 So let me try again.
23 MR. BEHA II: That's not what
24 she said in the portion you read back.
25 She said that the price would have

1 L. Allen
2 been different, right? That's what
3 she said. She didn't say that the
4 price had to move. She said the price
5 would be different but for the
6 statement.
7 MR. BROWER: Well, she said "had
8 been different" or "had moved."
9 Q. How would it be different? How
10 would the stock price be different if
11 there was price impact?
12 A. It would depend on the
13 circumstances. I don't know what you mean
14 by -- it would depend on the circumstances
15 how much it would have been different, but
16 when I'm talking about a different stock
17 price, I'm talking about the price would
18 have been different.
19 Q. Does that mean the price would
20 have moved?
21 A. Not that the price did move.
22 The price would have been different.
23 Q. If there was price impact, the
24 price would have moved; is that what
25 you're saying?

1 L. Allen
2 A. Would have been different.
3 Q. What does "different" mean?
4 Same price? The price is \$10 --
5 A. A stock price moving is from
6 some point in time to some later point in
7 time. A different stock price is, if
8 things had been different, it would have
9 been a different price. Movement is from
10 one time period to the next time period.
11 When you say a stock price
12 moves, you typically say, from some
13 earlier period of time, the stock price is
14 different than what it is in a later point
15 in time. Price impact is, at given point
16 in time, would the price have been
17 different.
18 Q. Okay. And you show on the
19 video, you're holding your hand up and
20 down just now.
21 Does price impact imply an
22 increase in the price of the stock or a
23 decrease depending on the information?
24 MR. BEHA II: Objection to form.
25 A. Does it imply that? I think the

Page 70

1 L. Allen
2 impact could be positive or negative on
3 the stock price. It could be positive or
4 negative price impact on a stock price.
5 Q. If it's positive impact, the
6 price goes up?
7 MR. BEHA II: Objection.
8 Q. Or avoid the word "move."
9 A. No. So price impact isn't
10 whether it moves. Price impact is whether
11 the price would have been different in an
12 alternative situation, if not for the
13 alleged misrepresentations.
14 Q. I know at various times in your
15 report, in analyzing the price impact of
16 the alleged misrepresentations, you note
17 the price did not increase upon the
18 release of that information.
19 Do you recall that?
20 A. Yes.
21 Q. Why do you provide that
22 analysis?
23 A. Plaintiffs claim, for example,
24 with regard to the April 12 alleged
25 misrepresentation, that the company made

Page 72

1 L. Allen
2 question?
3 A. I have a discussion of that --
4 yes, I did look at that. I have a
5 discussion of that in my report.
6 So there's a prior statement --
7 there's news coming out that's attributed
8 to the company, the day before, that
9 plaintiffs are not alleging as a
10 misrepresentation in this case. I did
11 look at that. As you say, it was released
12 very near the end of the market close. I
13 did look at how the market reacted after
14 that, and I saw no evidence that there was
15 a price impact from that statement as
16 well.
17 Q. Did you analyze -- I may not
18 have understood you just now.
19 Did you analyze whether or not
20 there was an impact on the price on April
21 11 of the company's late-in-the-day denial
22 of the allegations in the Detwiler Fenton
23 report?
24 A. Yes. As I understand it, that's
25 not an alleged misrepresentation in the

Page 71

1 L. Allen
2 -- issued a press release that was -- had
3 a positive effect on the stock price by
4 refuting a Detwiler Fenton report that had
5 been released the prior day. If that
6 information had price impact and affected
7 the stock price, information that
8 plaintiffs are claiming positively
9 impacted the stock price -- there's not
10 other information released that day
11 affecting the stock price, and the lack of
12 positive reaction to that alleged
13 affirmative misstatement is evidence that
14 that statement did not impact the stock
15 price.
16 Q. Did you analyze -- while we're
17 talking about April 12 did you analyze
18 whether or not the company, in fact,
19 denied the assertions in the Detwiler
20 Fenton report at the end of the day but
21 before the market closed on April 11?
22 MR. BEHA II: Objection to form.
23 I'm not sure what you mean by
24 "analyze."
25 Q. Do you not understand the

Page 73

1 L. Allen
2 case. I did look at whether that e-mail
3 packet had the stock price and I believe I
4 have a discussion of that. I was just
5 trying to find that in my report.
6 Q. It starts at page 37, I believe.
7 A. Okay.
8 Q. But I'm not sure where you're --
9 A. If you look at footnote 77, I
10 think that explains what I am referring
11 to.
12 Q. Okay.
13 MR. BROWER: Can I have my
14 chart, please?
15 Q. So let me be clear.
16 Your conclusion was there was no
17 price impact on April 12?
18 A. Of the alleged
19 misrepresentation.
20 Q. Is it your opinion there was no
21 price impact on April 11 either, as a
22 result of the denial of the Detwiler
23 Fenton report?
24 A. No price impact from this
25 Bloomberg news article, yes.

1 L. Allen

2 Q. Did you look at any other
3 sources of information that may have
4 carried the company's denial on the 11th?

5 A. I looked for when news regarding
6 what was released, or similar to what was
7 released, on the 12th, was first announced
8 on the 11th. Yes.

9 Q. By similar, the company denying
10 Detwiler Fenton information was correct
11 regarding returns?

12 A. Yes.

13 Q. Okay. Let's mark this 5.

14 (Allen Exhibit 5, document
15 headed IntraDay Price Analysis, marked
16 for identification, as of this date.)

17 Q. I provided you a document that
18 has been created by Dr. Feinstein's
19 company that shows the movement in the
20 price of BlackBerry stock from Bloomberg
21 data on a two-minute interval, during the
22 time period between 9:30, on April 10,
23 to -- that's fifteen and three -- I guess,
24 3:58 on April 12.

25 And for convenience, the second

1 L. Allen

2 page is a -- what would you do -- forgive
3 me -- on an iPhone, when would you enlarge
4 the center of the chart. So it shows the
5 period from 12:06 on the 11th, until
6 approximately 12 noon on the 12th.

7 MR. BEHA II: Has this document
8 been produced or disclosed before?

9 MR. BROWER: No. I just had it
10 made. The ink is wet.

11 MR. BEHA II: I don't recognize
12 it. So there's no foundation or basis
13 in the record to conclude that this is
14 actually an accurate document.

15 MR. BROWER: Go to the record
16 and check the stock price. It's on
17 Bloomberg. You can do that. We're
18 not going to discuss it.

19 MR. BEHA II: There's no
20 foundation in the record that --

21 MR. BROWER: Is that an
22 objection or a speech?

23 MR. BEHA II: I'm asking you is
24 there any --

25 MR. BROWER: I'm not answering

1 L. Allen

2 you.

3 Yes, the stock price information
4 from Bloomberg is in the record. It's
5 one of the many things Dr. Feinstein
6 considered in connection with his
7 report. You can go look it.

8 MR. BEHA II: I'm just going to
9 object to all the questions related to
10 this document for the lack of
11 foundation.

12 MR. BROWER: Okay. That's your
13 right.

14 Q. Ms. Allen, can you take a look
15 at the chart, please, particularly the
16 second page?

17 A. I'm not sure this is information
18 that Dr. Feinstein considered in preparing
19 his report.

20 Q. He considered stock prices.

21 A. Yeah, this is intraday stock
22 prices. I don't believe Dr. Feinstein
23 considered intraday stock prices in doing
24 his report, so I don't see anything that
25 says that.

1 L. Allen

2 Q. Did you conduct this analysis?

3 A. I did not conduct this analysis.
4 It looks like Dr. Feinstein conducted this
5 analysis.

6 Q. Right.

7 Did you independently conduct
8 this analysis before providing your report
9 here in this case?

10 A. I did not conduct this analysis
11 at all. It looks to me like Dr. Feinstein
12 conducted analysis. It does not look to
13 me like he conducted this analysis before
14 he did his report because it doesn't look
15 to me like this was information that was
16 even considered in preparing his report
17 analysis.

18 Q. Once again, did you conduct an
19 analysis of the intraday price movement of
20 BlackBerry stock between sometime around
21 noon on the 11th to sometime around noon
22 on the 12th, on a two-minute or other
23 short interval period, in order to reach
24 your conclusions set forth in the report?

25 A. I looked at intraday stock

Page 78

1 L. Allen
 2 prices.
 3 Q. Uh-huh.
 4 A. For BlackBerry as well as some
 5 of the indices around this time period.
 6 Q. Okay. Did you find any stock
 7 movement between 3:46 on April 11th to the
 8 close on April 11th?
 9 A. 3:46, you're asking?
 10 Q. Uh-huh. That's the time set
 11 forth in footnote 77 of your report that
 12 Bloomberg announced that the company was
 13 denying the Detwiler Fenton allegations.
 14 A. Can you repeat your question?
 15 Q. Sure.
 16 Did you notice any movement in
 17 the price of the stock of BlackBerry on an
 18 intra day analysis between 3:46 p.m. on
 19 April the 11th to the close on April 11th?
 20 A. I do recall the stock going up
 21 and down and coming back to essentially
 22 where it was before the announcement
 23 within a very short timeframe.
 24 Q. When you say the "announcement,"
 25 which announcement are you referring to?

Page 80

1 L. Allen
 2 misrepresentation regarding the Detwiler
 3 Fenton report, would you still find that
 4 there was no price impact with respect to
 5 the company's denials?
 6 A. Yes.
 7 MR. BEHA II: Objection to form.
 8 A. I think I would, because you can
 9 see even from what Dr. Feinstein appears
 10 to have done here, is that the stock price
 11 is back by the close. And I will note
 12 this doesn't go down to zero. So these
 13 look like huge price movements. But this
 14 is only going from \$14 down to \$13. So
 15 this whole thing is only 70 cents.
 16 So it makes it look like the
 17 stock is moving -- that it dropped
 18 90 percent and then it shoots back up
 19 another 40 percent. So this makes the
 20 stock price movements look enormous
 21 because the scale is not at zero, but you
 22 can see from the chart that Dr. Feinstein
 23 appears to have done, that the stock price
 24 by the close is right back to where it was
 25 before -- before the announcement.

Page 79

1 L. Allen
 2 A. Were you asking me about the
 3 Bloomberg news article?
 4 Q. Denying the Detwiler Fenton
 5 story?
 6 A. The Bloomberg news article that
 7 I have referenced in footnote 77.
 8 Q. Okay. And in that Bloomberg
 9 news article it reported the company's
 10 denial of the allegations in the Detwiler
 11 Fenton report from earlier in the day?
 12 A. There was similar information in
 13 the -- I think I -- I say in paragraph 63,
 14 "I find that substantially similar
 15 statements to the April 12 alleged
 16 misrepresentations, addressing the
 17 Detwiler Fenton report were made by
 18 BlackBerry before April 12. These
 19 statements are not claimed as alleged
 20 misrepresentations."
 21 And I say they were reported in
 22 an article by Bloomberg.
 23 Q. Okay. So, where plaintiffs just
 24 say -- I don't know, amend their complaint
 25 and say the company started its

Page 81

1 L. Allen
 2 Q. Which announcement?
 3 A. Before this Bloomberg.
 4 Q. Then it goes back up the next
 5 day?
 6 A. I believe the next day -- well,
 7 I know the next day is non statistically
 8 significant so that's both what
 9 Dr. Feinstein's two event studies show, as
 10 well as what my event study shows, that
 11 there's no statistically significant
 12 reaction in BlackBerry's stock price on
 13 the day of the alleged misrepresentation.
 14 Q. On the 11th?
 15 A. On the day of the alleged
 16 misrepresentation, which is what you asked
 17 me about -- I believe is what you asked me
 18 about -- there is no statistically
 19 significant reaction in BlackBerry's
 20 stock, according to both of
 21 Dr. Feinstein's event study methodologies,
 22 as well as the alternative event study
 23 methodology that I have in my report.
 24 MR. BEHA II: Just to be clear,
 25 the day of the alleged

1 L. Allen
2 misrepresentation is the 12th.
3 MR. BROWER: I understand. And
4 I believe she also testified there was
5 none on the 11th, that she analyzed
6 the 11th as well.
7 Q. Is that incorrect? Did I
8 misunderstand you?
9 A. I looked at whether there was
10 evidence of price impact from the same and
11 from similar statements that were made
12 prior to the alleged misrepresentation --
13 statements that were not alleged by
14 plaintiffs as misrepresentations but were
15 previously announced. And, as you can see
16 even from this chart, I found that the
17 stock moved back -- went up briefly, and
18 moved back to where it was before the
19 Bloomberg article -- or, essentially back
20 to where it was before the Bloomberg
21 article.
22 Q. Okay. So you did analyze the
23 11th as well -- strike that.
24 Did you do an event study for
25 the 11th after the Bloomberg story?

1 L. Allen
2 did you look at intraday prices analysis?
3 MR. BEHA II: I think that
4 misstates her testimony. I don't
5 think she said she did an event study
6 for the 11th. I think she said she
7 did it for the 12th, just to be clear.
8 Q. Did you do an event study for
9 the 11th?
10 MR. BEHA II: A daily event
11 study?
12 MR. BROWER: Uh-huh.
13 A. I don't recall. I may have.
14 Q. But it's not in your report?
15 A. Well, so I replicated
16 Dr. Feinstein's two different event
17 studies.
18 Q. Uh-huh.
19 A. And I believe he shows them on
20 every day. I'm not sure. I didn't, not
21 specifically, and not that the goes into
22 the analysis in my report. But in the
23 process of either replicating
24 Dr. Feinstein.
25 I don't -- I think Dr. Feinstein

1 L. Allen
2 A. So I did a -- I used the event
3 study -- I did a daily event study. Not
4 using the daily price movement, I did a
5 daily analysis the day of the
6 misrepresentation. I did, as I note in
7 footnote 77, look to see whether there was
8 any evidence that there was price impact.
9 So there's two things going
10 on -- at least two things going on, on the
11 day of the 11th. There is the Detwiler
12 Fenton report itself, and then there are
13 statements attributed to the company that
14 are very similar to those statements that
15 plaintiffs claim as alleged
16 misrepresentations on the 12th.
17 I have looked whether there's
18 evidence of price impact from the
19 statements that are very similar to the
20 alleged misrepresentations that plaintiffs
21 claim the company made on April 12 and
22 found no evidence of price impact from
23 those.
24 Q. With respect to doing your event
25 study -- daily event study for the 11th,

1 L. Allen
2 just has every day. So it's possible I
3 did do something where I have every day,
4 because in replicating him, it shows every
5 day. I don't have a recollection.
6 Q. How about in conducting your
7 personal test, your third version?
8 A. Yeah, that's what I don't
9 recall. It might be because I just don't
10 recall how it was set up. So if in, you
11 know, if it spit out, it wasn't
12 particularly relevant to what I was doing
13 here. But it's possible the way the --
14 it's possible that, in replicating
15 Dr. Feinstein, it spit out those results,
16 because he has every day in the class
17 period. I just don't recall.
18 Q. Fair enough.
19 By the way, with respect -- I
20 realize that the axis of the chart is a
21 relatively small group of prices. That
22 was to blow it up, to make it look big
23 bigger.
24 My question is, was the 70-cent
25 movement -- I think that was the number

1 L. Allen
2 you mentioned. I will accept that for
3 now -- was the 70-cent movement in the
4 price of the BlackBerry stock a
5 significant movement?

6 A. I couldn't answer that question.
7 It depends on what's going on in the
8 indices and what's going on during the
9 day. But just in response to -- it's not
10 the case that you just blew it up that it
11 looks big because of the way you blew it
12 up to focus in on it. That's only
13 focusing in on it across time.

14 The first chart, which is isn't
15 focusing in on it, also makes the
16 movements look much bigger than they are,
17 because it only goes down to \$13 instead
18 of going down to zero. So it looks like
19 the stock price is moving by magnitudes of
20 50 percent, when it's really moving by
21 much smaller magnitudes than that.

22 So it's not just what you're
23 calling the "blowup" that gives a
24 misleading impression. The other one does
25 as well.

1 L. Allen

2 Q. Right. Or we could use bigger
3 paper, and it would look the same?

4 A. No. It's not the size of the
5 paper, it's just the axis is only going to
6 \$13 instead of going to zero.

7 Q. But if I used much bigger paper
8 and it went, at the bottom, down to zero,
9 it would still be down to zero, wouldn't
10 it, from here? This is the range it
11 traded at.

12 A. It wouldn't look like the stock
13 price dropped 50 percent.

14 Q. Is this the range -- do you have
15 any reason to believe this is not the
16 range the stock traded in during the
17 period on the chart and we will look at
18 the first chart?

19 A. I don't know what you mean by
20 the range.

21 Q. The range of prices it looks
22 like it went from 14.70 to -- a high of
23 14.70 to what appears to be a low of --
24 call it 13.35, give or take.

25 Do you have any reason to

1 L. Allen
2 believe that's not the trading range on
3 than day?

4 A. I don't have a particular
5 reason. I could probably look at
6 something. No, I don't have a reason to
7 believe that's not it.

8 MR. BROWER: This is 6.
9 (Allen Exhibit 6, document
10 headed Historical BlackBerry Price
11 Data, marked for identification, as of
12 this date.)

13 Q. For the record, this is just a
14 list of trading prices. Again, I believe
15 it comes from Bloomberg. It's highs,
16 lows, and closes.

17 You're familiar with these kind
18 of statistics, Ms. Allen?

19 A. I'm familiar with --

20 Q. Not these -- I'm not asking if
21 you're familiar with these particular
22 numbers.

23 A. What are you asking then?

24 Q. Whether this shows the range
25 during the day for -- if you go to April

1 L. Allen

2 11, 2013, which is on the third page --
3 I'm sorry, it's on the second page. I
4 apologize -- is that range consistent with
5 the chart that's Exhibit 5? And by
6 "range," I mean the range of trading
7 prices during that day?

8 A. No, I don't believe so. I mean,
9 for example, this -- the high on April 11
10 is 14.20.

11 Q. Right.

12 A. And I do see prices that seem to
13 be on 4/11 that seem to be above 14.20.

14 Q. That's not before the 11th.
15 That's before the market opened at 9:30?

16 A. This is on the 11th, isn't it?

17 Q. No. It's before the market
18 opened. You will notice there's a legend
19 there for stock price Detwiler Fenton
20 report premarket with a little red dot?

21 A. I do see that. I don't see
22 anything that gets as high as 14.20 that's
23 after that point. So I don't -- it
24 doesn't look consistent. Neither way does
25 it look consistent, regardless of how you

1 L. Allen

2 look at it.

3 Q. Okay.

4 A. So, you know. Either you've got
5 prices that are too high, if you're
6 talking about the whole day, and if you're
7 talking about only after the market, then,
8 no, there's nothing that hits 14.20, so --

9 Q. Did you do any analysis of a
10 market trading between April 11 and
11 April 12?

12 A. I don't recall specifically, no.

13 Q. Would an analysis of a market
14 trading provide any additional information
15 with respect to price impact between
16 April 11 and April 12?

17 A. I've only been asked to analyze
18 price impact from the alleged
19 misrepresentation the alleged
20 misrepresentation on April 12th. If
21 plaintiffs had different alleged
22 misrepresentations, I don't know.

23 I think -- I'm not sure, as I
24 sit here, the answer to that. I've
25 analyzed the alleged misrepresentations.

1 L. Allen

2 Q. And this was on April 12, that's
3 alleged in the Complaint?

4 A. Also, plaintiffs claim there was
5 an alleged misrepresentation on April 12,
6 and that's what I have analyzed.

7 Q. You also testified that the same
8 information that constituted the
9 plaintiffs' alleged misrepresentation on
10 the 12 had actually been released to the
11 market late in the day on April 11; is
12 that correct?

13 A. Yes. Similar. Substantially
14 similar statements.

15 Q. Okay. And did you analyze that
16 movement in the price -- strike that.

17 Did you analyze price impact
18 with respect to the statement on the 11th
19 that is substantially similar to the one
20 the plaintiffs allege on the 12th?

21 MR. BEHA II: Asked and
22 answered.

23 A. As we previously discussed, I
24 did the analysis that's discussed that's
25 in footnote 77 of my report.

1 L. Allen

2 Q. Did you do anything beyond
3 what's in footnote 77?

4 A. I don't believe so, no.
5 Anything that's described beyond, yeah.

6 Q. Okay.

7 A. I mean, of course I did lots of
8 things that went beyond what's summarized
9 in my report.

10 Q. I'm sorry. I meant with respect
11 to April 11, the subject matter we're
12 discussing.

13 A. Well, other than whatever else
14 is described in my report. There's lots
15 of things I did in my report that have to
16 do with -- so I don't want to -- there may
17 be other things described in my report
18 that are relevant. I do not want to limit
19 my answer. My report summarizes all the
20 work that I have done in this matter.

21 Q. Can you tell us what else in
22 your report, other than paragraph 62 and
23 footnote -- I'm sorry, paragraph 63 and
24 footnote 77 is -- and footnote 76 is
25 relevant to whatever occurred on April 11?

1 L. Allen

2 I could restate that, if it's
3 helpful.

4 A. Well, I mean one, of the things
5 that is relevant is understanding, you
6 know, what is important to the market at
7 this point in time. What is going on with
8 BlackBerry. What is being announced. Who
9 are the analysts that are covering the
10 company. How are they valuing the
11 company. What are they doing. What
12 information is being released. How has
13 the stock price moved relative to other
14 market peer indices.

15 So all of the things that I have
16 been generally looking at in other aspects
17 of my report, I think can be related to
18 this or could be related to this.

19 Q. Okay. Does a price of a stock
20 have to increase for there to be price
21 impact from the stock price statement?

22 MR. BEHA II: Asked and
23 answered.

24 A. I don't believe so, no.

25 Q. Does a price of a stock have to

1 L. Allen
2 decrease in response to a statement for
3 there to be price impact?
4 A. No, I don't believe so.
5 Q. Do you understand the concept of
6 price maintenance?
7 A. I've heard the term "price
8 maintenance." I've heard it used in
9 different ways. I wouldn't say I do
10 understand without context on how it's
11 being used in different ways.
12 Q. In your report, you -- I believe
13 you cited to some case law you reviewed in
14 connection with this case, in doing your
15 report.
16 Do you recall that?
17 A. Sorry. Can you repeat that?
18 Q. Sure.
19 In your report you referred
20 looking to some case law in connection
21 with doing your report and forming your
22 opinions. I asked if you recall that?
23 A. Yes, I do recall citing what
24 price impact means with regard to -- I
25 think I've quoted from the Halliburton

1 L. Allen
2 have an understanding of how it's going to
3 be used. I think you have to have an
4 understanding of what you've been asked to
5 do and make clear what the assignment is
6 and what are the assumptions. Under what
7 legal theory or how it might be used
8 legally I don't think is necessarily
9 required to do an analysis.
10 Q. Now, I asked, again, do you know
11 what the price maintenance theory is with
12 respect to price impact?
13 A. Are you just repeating a
14 question that I previously answered?
15 Q. Yes. I just want to make sure
16 it's clear. You do or you don't?
17 A. I have seen discussions on it.
18 I don't. I think people mean different
19 things by it, but I would say, no, I don't
20 have a good understanding of how it's used
21 in different context. To me I have seen
22 what seems to be conflicting discussions
23 of it.
24 Q. Do you believe there's such a
25 thing as price maintenance?

1 L. Allen
2 decision, footnote 31.
3 Q. Did you cite any other cases?
4 A. Well, I see below that I cite
5 Halliburton 2.
6 Q. Can you refer to the page?
7 A. Page 12.
8 Q. Did you cite any other cases
9 with respect to price impact?
10 A. I don't recall specifically, no.
11 Q. Are you familiar with the law in
12 the Second Circuit with respect to price
13 impact?
14 A. I am not a lawyer, and I don't
15 want to say whether -- I don't know
16 whether I'm familiar with the law. I'm
17 not sure how to answer that question.
18 Q. Well, let me ask you a broader
19 question.
20 Do you believe you need an
21 understanding of what the law is with
22 respect to how an economic theory is to be
23 used in a lawsuit in order to provide an
24 opinion?
25 A. I don't think you have to you

1 L. Allen
2 A. I don't know how to answer that
3 question. It's not a thing that exists
4 like you do believe in the Easter Bunny.
5 It's a term that I think lawyers use in
6 different context. It seems like it's a
7 legal construct. I don't think it's
8 something I could believe in or not
9 believe in.
10 Q. Let me ask it a different way.
11 Do you believe if a company's
12 stock has been inflated by a
13 misrepresentation, that a later
14 misrepresentation on the same or similar
15 subject matter can keep the price of the
16 stock level without causing it to go up or
17 down?
18 A. Can you repeat that?
19 Q. Sure. I will try it a different
20 way.
21 Hypothetical: The company stock
22 and the price is inflated by a
23 misrepresentation. A month later, the
24 company makes a similar statement
25 consistent with the prior

1 L. Allen
2 misrepresentation which is also a
3 misrepresentation. The price doesn't
4 move.

5 How would you explain -- would
6 it be your position that there's no price
7 impact with respect to the second
8 statement?

9 A. I think it would depend on the
10 circumstances. If that statement had not
11 been made, what would the price have been.
12 And if without that statement the price
13 would have been the same then I think if
14 the price would have been the same with or
15 without a particular statement, then I
16 think it doesn't have price impact.

17 Q. Is it your position that if a
18 company releases -- makes a
19 misrepresentation but the
20 misrepresentation is believed by the
21 market and reflects expected information,
22 it would have an impact on the price of
23 the stock?

24 I will rephrase it.

25 Is it true the market sometimes

1 L. Allen
2 has expectations for how a company is
3 going to perform?

4 A. Yes, I would agree with that.

5 Q. If a company delivers what the
6 market expects, are there circumstances
7 where the price of the stock doesn't move,
8 or doesn't move in a statistically
9 significant way?

10 A. Yes, I believe that's correct.

11 Q. What is the reason that occurs?

12 A. I think one reason is if the
13 information that's announced is what is
14 expected, then you wouldn't expect a
15 reaction from that. It's not new. It's
16 not new information.

17 Q. If it turns out that that
18 information that was expected is, in fact,
19 false information, i.e. the maker of the
20 statement is telling the market what it
21 expects but, in fact, the truth is
22 otherwise, would the stock price be
23 expected to move?

24 A. I think, in general, if the
25 company announces something that is

1 L. Allen
2 expected by the market, then you wouldn't
3 expect a reaction to that.

4 Q. Whether it's true or not,
5 whether the statement itself is true?

6 A. Correct. That would be my
7 general --

8 Q. Okay.

9 A. In general, all things equal.

10 Q. If it's a false statement that
11 the company makes of something the market
12 is expecting, would there be price impact
13 from that false statement?

14 A. I don't have an answer to that.
15 It would depend.

16 Q. It would depend on what?

17 A. I think the question of price
18 impact is whether a statement affects the
19 took price and so if in the absence of
20 that statement the stock price would have
21 been something different, then I think
22 that is -- that statement is affecting the
23 stock price.

24 So that's what would have to be
25 analyzed and your hypothetical is whether

1 L. Allen
2 that statement, in fact, affected the
3 stock price because the absence of that
4 statement would have had a different
5 effect.

6 Q. Let me give you -- let me try to
7 give you an example. Let me give you
8 another hypothetical.

9 The market is expecting the
10 company to report \$10 per share in income
11 for a quarter. The company announces they
12 have made \$10 a share in income. In fact,
13 the company lost money. That's a lie. If
14 the company had told the truth, would the
15 stock price likely be different all things
16 being equal?

17 A. I mean, I would say in a --
18 generally one would expect that losing
19 money is worse news than making money, I
20 think was your --

21 Q. \$10 a share.

22 A. And that, you know, in general,
23 I would expect that losing money isn't
24 good news to stock prices and making money
25 is so that companies that -- the

1 L. Allen

2 difference between announcing making money
3 and losing money can, you know, in the
4 most -- you know, certainly not always,
5 and that's not -- if I had to guess what's
6 more typical, in general, it's better for
7 companies to make money than to lose
8 money, I think, is the general -- is
9 generally true.

10 Q. And you would expect the stock
11 price to fall if they announced they lost
12 money instead of making the \$10 the market
13 expected?

14 A. You would need to analyze that.
15 I think certainly that's not always the
16 case, but I think generally losing money
17 is bad news and making money is good news.

18 Q. What happens to stock prices
19 when there is bad news?

20 A. Typically, if it's bad news,
21 stock prices fall, and they go up with
22 good news.

23 Q. And they basically stay the same
24 with expected news?

25 A. Yeah. This is all very general,

1 L. Allen

2 after controlling for things -- other
3 things that are going on, yeah. Simplest
4 case, all other things equal, generally,
5 if things don't change, stock prices stay
6 the same. If there's good news, stock
7 prices go up, with bad news, they go down.
8 That's most generally.

9 Q. In the hypothetical where the
10 company has represented that it made the
11 expected \$10 a share, but, in fact, has
12 lost money, would there be a price impact,
13 all other things being equal?

14 A. Then you have to be clear on
15 what are you asking about price impact.
16 So what's your actual question, price
17 impact from what?

18 Q. Does maintaining the price of a
19 stock by a misrepresentation constitute a
20 type of price impact?

21 A. I wouldn't expect the stock to
22 react in the circumstances that you just
23 said.

24 Q. And is that a form of price
25 impact?

1 L. Allen

2 A. No, that's not particularly a
3 form of price impact. So not reacting
4 itself is not a form of price impact. I
5 would say, no.

6 Q. Okay.

7 MR. BROWER: It's a good time
8 for a break.

9 MR. BEHA II: Okay.

10 THE VIDEOGRAPHER: The time is
11 12:21. We're going off the record.

12 (Recess taken.)

13 A F T E R N O O N S E S S I O

14 N

15 (Time noted: 1:32 p.m.)

16 L U C Y A L L E N, resumed and
17 testified as follows:

18 THE VIDEOGRAPHER: The time is
19 1:32. We're back on the record.

20 EXAMINATION BY (Cont'd.)

21 MR. BROWER:

22 Q. Ms. Allen, earlier I was asking
23 you about theories of price impact, and
24 you said that you've seen discussions of
25 it, and you think it means different

1 L. Allen

2 things to different people.

3 Do you remember that?

4 A. I think that was with regards to
5 price maintenance.

6 Q. Maintenance, correct. Thank you
7 for the correction.

8 And then you ended by saying,
9 "To me, I have seen what seems to be
10 conflicting discussions of it."

11 Can you tell me what your
12 understanding of the conflicting
13 discussions are?

14 A. I can't really. I mean, I have
15 seen the term "price maintenance" used in
16 different circumstances. And it is -- I
17 have not -- if you show me some
18 circumstances of it being used, I can try
19 to explain what I think is different
20 between them or what I've seen, but as I
21 sit here, I don't have a particular
22 instance in mind.

23 Q. Have you seen it in connection
24 with securities litigation?

25 A. That's what I am referring to,

<p style="text-align: right;">Page 106</p> <p>1 L. Allen</p> <p>2 is the term "price maintenance" used in</p> <p>3 the context of securities litigation.</p> <p>4 Q. Okay. Can you go to page 6 of</p> <p>5 your report, please?</p> <p>6 A. Sure.</p> <p>7 Q. Okay. Item letter N, "legal</p> <p>8 decisions on class certification and</p> <p>9 market efficiency," what legal decisions</p> <p>10 on class certification did you consider in</p> <p>11 connection with your report?</p> <p>12 MR. BEHA II: I think this was</p> <p>13 asked and answered this morning.</p> <p>14 MR. BROWER: No, it wasn't.</p> <p>15 A. I think to the extent -- I</p> <p>16 should have footnoted them.</p> <p>17 Q. Other than Halliburton 1 and 2</p> <p>18 that you identified, any other legal</p> <p>19 decisions on class certification you</p> <p>20 considered in connection with your report?</p> <p>21 A. I don't believe so, unless I</p> <p>22 footnoted them.</p> <p>23 Q. Okay. Did you consider Basic</p> <p>24 versus Levinson?</p> <p>25 A. I have reviewed</p>	<p style="text-align: right;">Page 107</p> <p>1 L. Allen</p> <p>2 Basic v. Levinson a number of times in the</p> <p>3 past. I don't recall specifically doing</p> <p>4 it with regard to this report. I don't</p> <p>5 believe I did so in preparing this report,</p> <p>6 no.</p> <p>7 MR. BEHA II: I apologize. Can</p> <p>8 we very quickly go off the record.</p> <p>9 MR. BROWER: Yeah, sure.</p> <p>10 THE VIDEOGRAPHER: The time is</p> <p>11 1:35. We are going off the record.</p> <p>12 (Off-the-record discussion</p> <p>13 held.)</p> <p>14 THE VIDEOGRAPHER: The time is</p> <p>15 1:37. We're back on the record.</p> <p>16 BY MR. BROWER:</p> <p>17 Q. Ms. Allen, you also indicate you</p> <p>18 reviewed legal decisions on market</p> <p>19 efficiency; is that correct?</p> <p>20 A. Considered. They're on my list</p> <p>21 of materials considered. That's correct.</p> <p>22 Q. What legal decisions on market</p> <p>23 efficiency did you consider in connection</p> <p>24 with doing your report?</p> <p>25 A. I think I reference a</p>
<p style="text-align: right;">Page 108</p> <p>1 L. Allen</p> <p>2 Cammer v. Bloom decision on footnote 34.</p> <p>3 Q. And why did you consider legal</p> <p>4 decisions on market efficiency for your</p> <p>5 price impact report?</p> <p>6 A. I'm noting here that courts -- I</p> <p>7 mean, what it has in footnote 34 is that</p> <p>8 courts often look to the number of</p> <p>9 analysts reports published on a company as</p> <p>10 an indication of market efficiency.</p> <p>11 Q. Do they look at the number of</p> <p>12 analyst reports on a company for the issue</p> <p>13 of market impact?</p> <p>14 MR. BEHA II: Objection to form.</p> <p>15 Market impact?</p> <p>16 Q. Price impact. Sorry.</p> <p>17 A. I think courts have looked at --</p> <p>18 I'm not particularly citing that. If your</p> <p>19 question is, have courts looked at the</p> <p>20 number of analyst reports with regard to</p> <p>21 price impact, yes. I believe they have.</p> <p>22 For example, I believe I've seen</p> <p>23 circumstances where experts, in analyzing</p> <p>24 price impact, have said that there were a</p> <p>25 number of analysts or there were no</p>	<p style="text-align: right;">Page 109</p> <p>1 L. Allen</p> <p>2 analysts that included this information or</p> <p>3 incorporated this information in their</p> <p>4 valuation or, for example, that no</p> <p>5 analysts reported on a particular matter.</p> <p>6 I believe I have seen instances of that,</p> <p>7 but that's not particularly what I'm</p> <p>8 citing Cammer v. Bloom for here.</p> <p>9 Q. Did market efficiency factor</p> <p>10 into your report?</p> <p>11 A. Yes, as I testified previously,</p> <p>12 I assumed that the market was efficient,</p> <p>13 as plaintiffs and their expert,</p> <p>14 Dr. Feinstein, allege.</p> <p>15 Q. Right.</p> <p>16 So why were you looking at</p> <p>17 Cammer v. Bloom in its progeny?</p> <p>18 MR. BEHA II: Objection. Asked</p> <p>19 and answered.</p> <p>20 A. I'm not sure I looked at a</p> <p>21 progeny of Cammer v. Bloom. I'm not sure</p> <p>22 -- I'm not even sure what that means, but</p> <p>23 I think I explained why I cited</p> <p>24 Cammer v. Bloom here. I explained why I</p> <p>25 cited that in the footnote there.</p>

Page 110

1 L. Allen

2 Q. I'm not sure how it fit into
3 your report. I'm trying to figure out why
4 it fit into your report.

5 If you assume market efficiency,
6 why then target back Cammer v. Bloom?

7 MR. BEHA II: Objection. Asked
8 and answered.

9 A. One of the indicia that courts
10 look at, at whether a market is efficient
11 is whether analysts are covering the stock
12 and disseminating information, and that
13 there is a belief that the more analysts
14 -- that having a number of analysts or
15 more analysts covering a stock, that
16 information is -- it's an indicia of
17 market efficiency in that it's information
18 that's impounded into the stock price, or
19 can be impounded into the stock price.

20 Q. I understand that, but you
21 assumed the market for BlackBerry stock
22 was efficient, so why did you need to
23 reference case law relating to what the
24 factors are in determining efficiency in
25 your report on price impact?

Page 112

1 L. Allen

2 impounded into the stock price.

3 Q. Okay. Were there a large number
4 of analysts that followed BlackBerry?

5 A. There were quite a few analysts
6 that followed BlackBerry. I don't recall
7 sort of various points. I might say --
8 yeah, for example, I might say there were
9 55 analysts, or at least 55 analysts
10 covering BlackBerry during the alleged
11 class period.

12 Q. Okay. Why did you -- strike
13 that.

14 Did you look at legal decisions
15 on price impact in securities cases?

16 A. I have seen legal decisions on
17 price impact in securities cases. I don't
18 believe -- well, I do reference the
19 Halliburton decision, where the term
20 "price impact," as it relates in this
21 particular context, I think -- I don't
22 know if that's the -- that's often where
23 -- I think the price impact that I've been
24 asked to analyze was something that the
25 Supreme Court in Halliburton was referring

Page 111

1 L. Allen

2 MR. BEHA II: Objection. Asked
3 and answered.

4 A. I'm not sure if I needed to do
5 it. I think it was helpful in showing
6 that one of the issues that the -- that is
7 one of the -- I'm discussing what analysts
8 reports are. For example, in
9 paragraph 23, I'm explaining they're
10 periodic reports issued by professional
11 financial analysts, brokerage firms that
12 perform research and analysis on specific
13 industries and companies.

14 So I'm giving information and
15 background on what our analysts report,
16 and why it's important to review them.
17 And I think it's helpful and supportive
18 that courts also think in the context of
19 market efficiency.

20 And Dr. Feinstein has claimed,
21 in his analysis of market efficiency, that
22 the presence of these analyst reports and
23 having their analysis and their
24 dissemination of this information is part
25 of how information gets impacted into and

Page 113

1 L. Allen

2 to. So I think the use of the term is the
3 same.

4 Q. Okay.

5 A. I don't know if that's the first
6 time it was used. I believe it's been
7 used before. But --

8 Q. But that was not listed in
9 item N that you did not look at legal
10 decisions on price impact in connection
11 with preparing your report other than
12 Halliburton 2?

13 MR. BEHA II: Objection. I'm
14 not sure that --

15 MR. BROWER: You want me to redo
16 it?

17 MR. BEHA II: Yeah. Reask that
18 question just to make sure we're
19 clear.

20 Q. You didn't list in item N any
21 legal decisions on price impact.

22 Did you look at any other legal
23 decisions on price impact in connection
24 with your report in this case other than
25 Halliburton 2?

Page 114

1 L. Allen
 2 MR. BEHA II: Objection. I
 3 think the preamble to the question
 4 misstates what's in the report.
 5 MR. BROWER: Okay.
 6 A. So item N in my report has a
 7 category called "legal decisions on class
 8 certification and market efficiency." The
 9 type of price impact that I am
 10 understanding that I have been asked to
 11 address is at the class certification
 12 stage. So I think price impact at the
 13 class certification stage would be
 14 subsumed within the category "class
 15 certification."
 16 Item N does not list particular
 17 decisions. It list as category. I have
 18 tried to footnote the specific decisions
 19 as well as other documents that I am
 20 referencing in my report at the point that
 21 I am referencing them. So item N doesn't
 22 list any specific decisions to the extent
 23 they are referenced in my report. I
 24 believe I have either put them in the
 25 footnote or put e-mail in the body of the

Page 115

1 L. Allen
 2 text itself.
 3 Q. Other than Halliburton 2, what
 4 legal decisions relating to market price
 5 impact did you consider in connection with
 6 providing your opinion in this case?
 7 A. I don't know if I cite other --
 8 I mean, I can he look through my report
 9 and look for the cites.
 10 Did you say Halliburton 2?
 11 Q. I said other than Halliburton 2?
 12 A. I believe I cite both
 13 Halliburton 1 and Halliburton 2, and I
 14 believe Halliburton 1 -- the definition of
 15 price impact I believe comes from -- at
 16 least according to my footnote, from
 17 Halliburton 1.
 18 Q. Any other cases other than
 19 Halliburton 1 and 2 relating to legal
 20 decisions on price impact?
 21 A. I don't recall, as I sit here.
 22 I can go through my report and look
 23 through my -- look through the footnotes,
 24 but --
 25 Q. Did you review the Second

Page 116

1 L. Allen
 2 Circuit decision in, in Re Vivendi
 3 securities litigation?
 4 A. In preparing my report in this
 5 case?
 6 Q. Yes, ma'am?
 7 A. I don't believe I did, unless it
 8 is referenced in my report.
 9 Q. Did you review the FindWhat
 10 Investor Group case from the 11th Circuit,
 11 in connection with preparing your report?
 12 A. I don't believe so, no.
 13 Q. Did you review
 14 Waggoner v. Barclays in connection with
 15 preparing your report? Also Second
 16 Circuit, by the way.
 17 A. I don't believe so. I will say
 18 that I did review, in preparing my report,
 19 plaintiffs' motion for class
 20 certification. To the extent that they
 21 have cited decisions or have quotes from
 22 decisions, I may have seen that but I
 23 don't recall reviewing the decision it is
 24 that you've asked for in preparing my
 25 report.

Page 117

1 L. Allen
 2 Q. Have you ever read any of those
 3 three decisions that I just mentioned?
 4 A. Well, then I would have to
 5 listen again to what those decisions were.
 6 Q. In Re Vivendi in the Second
 7 Circuit?
 8 A. I believe I have seen that
 9 decision. The name sounds familiar to me.
 10 Q. I asked if you read it.
 11 Have you read it?
 12 A. I believe I have read that
 13 decision or at least portions of it
 14 because the name sounds familiar to me,
 15 but I'm not sure.
 16 Q. Okay. Have you read the
 17 FindWhat Inventor Group case?
 18 A. Not that I recall.
 19 Q. Have you read
 20 Waggoner v. Barclays, PLC?
 21 A. I don't know.
 22 Q. Have you read Lentell v. Merrill
 23 Lynch from the Second Circuit?
 24 A. I don't know as I sit here.
 25 Q. Have you read Virginia

Page 118

1 L. Allen
2 Bankshares v. Sandberg from the United
3 States Supreme Court?
4 A. I don't recall as I sit here.
5 Q. You testified earlier that price
6 impact does not require the stock price
7 increase and the price impact does not
8 require price decrease.
9 If a price doesn't increase or a
10 price does not decrease, how do you have
11 price impact?
12 A. Well, first, I'm not sure if
13 what you just said is what I actually
14 testified to. So you've been asking me
15 questions. And what I have been asked to
16 do here is analyze price impact from the
17 alleged misrepresentations.
18 The word "price impact" can mean
19 different things in different contexts,
20 but we often talk about does a certain
21 statement impact the price and does it
22 have price impact, which is more general
23 than whether alleged misrepresentations
24 have price impact.
25 So I want to make that

Page 120

1 L. Allen
2 there to be price impact?"
3 "No, I don't believe so."
4 That was your testimony. So
5 let's make it easier, so it's clear.
6 A. Okay. I agree with that
7 testimony.
8 Q. Okay. Does the price of a stock
9 have to increase in response to a
10 misrepresentation for there to be price
11 impact?
12 A. From the alleged
13 misrepresentation?
14 Q. From the alleged
15 misrepresentation?
16 A. No, I don't believe so.
17 Q. Okay. Does the price of a stock
18 have to decrease in response to a
19 misrepresentation for there to be price
20 impact from the misrepresentation?
21 A. No. It does not have to be the
22 case.
23 Q. Okay. Please explain what
24 happens if -- strike that.
25 Please explain how there is

Page 119

1 L. Allen
2 distinction. In general, the methodology
3 of analyzing whether a statement has price
4 impact is generally the same thing
5 regardless of whether it's a
6 misrepresentation or it's not an alleged
7 misrepresentation. But I think we've been
8 using some sort of shorthand -- and I've
9 been doing that too. I want to make -- be
10 more clear about what we're actually
11 talking about.
12 I don't particularly agree that
13 he what you said is what I had previously
14 testified to and if it is what I
15 previously testified to it's because I was
16 using shorthand when I probably shouldn't
17 have, and been more clear about what it is
18 we're talking about.
19 Q. Let's read the question and
20 answer back: "Does the price of a stock
21 have to increase for there to be price
22 impact from a statement?"
23 "I don't believe so, no."
24 "Does the price of a stock have
25 to decrease in response to a statement for

Page 121

1 L. Allen
2 price impact if there is no increase or
3 decrease in the price of a stock in
4 response to a misrepresentation.
5 A. Can you repeat that?
6 Q. Sure.
7 Please explain what happens
8 if -- strike that.
9 Please explain how there is
10 price impact if there is no increase or
11 decrease in the price of a stock in
12 response to a misrepresentation.
13 A. So it can be the case the stock
14 does not move after alleged
15 misrepresentation, but if an alternate
16 statement had been made or if the alleged
17 misrepresentation had not been made at
18 all, the price would have been different.
19 And the difference -- so the
20 alleged misrepresentation is affecting the
21 stock price in this hypothetical because
22 the stock price would have been different
23 if not for the alleged misrepresentation.
24 Q. Is it possible for a
25 misrepresentation to maintain the price of

Page 122

1 L. Allen
2 a stock at a particular price?
3 A. I'm not sure what that means.
4 Q. Go back to the hypothetical we
5 did before lunch. If the company issues a
6 statement that is within the expectations
7 of the market consistent with the
8 expectations of the market, but, in fact,
9 it's a lie, and the stock doesn't move
10 does that lie still have a price impact?
11 A. I think if what you're saying is
12 the alleged misrepresentation if it had
13 not been made the stock price would have
14 been different, then I think that is
15 showing -- is saying that the alleged
16 misrepresentation affected the stock price
17 and that is my understanding of price
18 impact.
19 Q. Okay. So just to finish the
20 hypothetical, if the company had, in fact,
21 told the truth in my hypothetical, rather
22 than the price staying the same as the
23 market -- because the information was as
24 the market expected, the price would go
25 down; is that correct?

Page 124

1 L. Allen
2 A. Yes. I don't know about
3 interesting. I found some things -- I
4 cited his deposition in parts here, and I
5 did find some things interesting, yes.
6 Q. Is there anything you disagreed
7 with Dr. Feinstein relating to price
8 impact -- strike that.
9 Did you find anything you
10 disagreed with Dr. Feinstein that's not in
11 your report?
12 A. Yes.
13 Q. Okay. And what was the subject
14 matter of the things you disagreed with in
15 the matter?
16 A. There are lots of things I
17 disagreed with from Dr. Feinstein's
18 deposition.
19 Q. Anything in connection with the
20 work you've been retained to do in this
21 case?
22 A. I think his entire deposition
23 was in connection with this case, as is
24 the work in this case. So I think, in
25 that sense, they're all connected to this

Page 123

1 L. Allen
2 A. I don't know if that's correct.
3 It's your hypothetical.
4 Q. Well, you remember, \$10 versus a
5 loss?
6 A. If that's what you want to say,
7 assuming that's true. I mean, that's your
8 hypothetical.
9 Q. Would you expect the price to go
10 down?
11 A. If the price would be different
12 but for the alleged misrepresentation,
13 then the alleged misrepresentation is
14 impacting or affecting the stock price,
15 and then that is my understanding of price
16 impact. So price impact is where the
17 alleged misrepresentation affects the
18 stock price.
19 Q. Did you read Dr. Feinstein's
20 deposition transcript?
21 A. Yes.
22 Q. Did you find anything
23 interesting in it?
24 MR. BEHA II: Objection to form.
25 Q. You can answer.

Page 125

1 L. Allen
2 case, so --
3 Q. I'm asking if anything you
4 disagreed with in Dr. Feinstein's
5 deposition relates to the work you were
6 retained to do in this case, which you've
7 testified was exclusively price impact?
8 A. Sure. I think it all kind of
9 relates. I'm not sure where to draw the
10 line on where it relates or doesn't
11 relate. I think much of what he was asked
12 in his deposition bears some relationship
13 to what I have been asked to do.
14 Q. What is the relationship?
15 A. I think you would have to go
16 through his deposition and I mean
17 different pieces have different
18 relationships. He was asked about some
19 things that are -- I think he was asked
20 about how he would analyze price impact.
21 I think he was asked about -- I don't
22 recall all the things he was asked in his
23 deposition, but many of the -- much of his
24 deposition is somehow related -- all of it
25 is related to this case, so it all bears

Page 126

1 L. Allen
2 some relationship. I'm not sure --
3 Q. Yeah, but I'm asking
4 specifically with respect to your report
5 and your retention in this case. Not the
6 scope of his testimony, the scope of your
7 testimony.
8 A. There was nothing in his
9 deposition that would cause me to change
10 the conclusions in my report.
11 Q. Okay.
12 A. But there are a number of things
13 in his deposition that I did not agree
14 with.
15 Q. Okay. But you were not retained
16 to rebut those things; is that correct?
17 A. Well that's correct.
18 Dr. Feinstein's has prepared an analysis
19 of market efficiency and I was not asked
20 to address market efficiency. I guess
21 he's done market efficiency as well as a
22 common damages methodology. I was not
23 asked to address either of those.
24 Q. Okay. Were you aware of whether
25 BlackBerry or Morrison & Foerster retained

Page 127

1 L. Allen
2 any other expert firms in connection with
3 analyzing stock prices in this case or in
4 connection with anything involving this
5 case?
6 MR. BEHA II: Objection to form.
7 Q. You can answer.
8 A. I am aware now because I
9 understand that you have subpoenaed
10 Cornerstone as well as NERA, so I have
11 some understanding that Cornerstone was
12 retained to do something, I think, with
13 regard to a different matter, is my
14 understanding, but --
15 Q. Do you know what that matter
16 was?
17 A. I think it had something to do
18 with Detwiler Fenton report, is my
19 understanding.
20 Q. And do you know what it was in
21 connection with, with respect to the
22 Detwiler Fenton report?
23 A. I think there's some sort of
24 litigation regarding the Detwiler Fenton
25 report or the information within it that

Page 128

1 L. Allen
2 Cornerstone was retained to analyze
3 something with respect to that is my
4 understanding.
5 Q. Did anyone share with you any of
6 the work product of Cornerstone in
7 connection with providing your report?
8 A. No.
9 Q. Anyone provide you with any of
10 the Cornerstone materials in connection
11 with preparing for this deposition?
12 A. No.
13 Q. Who explained the Detwiler
14 Fenton situation to you?
15 MR. BEHA II: Objection to form.
16 Q. You can answer.
17 MR. BEHA II: No. What is the
18 "Detwiler situation"?
19 Q. Who explained to you what
20 Cornerstone did for BlackBerry and/or
21 Morrison & Foerster in connection with
22 BlackBerry?
23 A. I don't recall.
24 Q. Was it counsel?
25 A. Counsel of some kind. It was

Page 129

1 L. Allen
2 lawyers of some kind, but I don't recall
3 which ones.
4 Q. Have you spoken to anybody at
5 Cornerstone about BlackBerry?
6 A. Not that I recall.
7 Q. And just to be clear, were you
8 given any BlackBerry documents that
9 discussed Cornerstone, or any analysis by
10 Cornerstone, of the Detwiler Fenton report
11 or price movement of BlackBerry stock?
12 A. Can you repeat that?
13 Q. Sure.
14 Just to be clear, have you --
15 were you given any BlackBerry document
16 that discussed Cornerstone or any analysis
17 by Cornerstone related to BlackBerry or
18 the Detwiler Fenton --
19 A. So any BlackBerry document that
20 related to Cornerstone; is that your
21 question?
22 Q. Uh-huh.
23 A. I mean, there are BlackBerry
24 documents that relate to the Detwiler
25 Fenton report that had nothing to do with

<p style="text-align: right;">Page 130</p> <p>1 L. Allen</p> <p>2 Cornerstone. So I do have -- I don't</p> <p>3 think I was given them by BlackBerry, but</p> <p>4 there's a press release, for example, that</p> <p>5 plaintiffs are claiming is the alleged</p> <p>6 misrepresentation, which is a BlackBerry</p> <p>7 statement that refers to the Detwiler</p> <p>8 Fenton report, and that is something that</p> <p>9 I didn't obtain through BlackBerry itself.</p> <p>10 But I have not gotten or</p> <p>11 received or reviewed any documents</p> <p>12 relating to any work done by Cornerstone</p> <p>13 from BlackBerry.</p> <p>14 Q. Or from Morrison & Foerster?</p> <p>15 A. Not with regards to this matter.</p> <p>16 Q. How about with regard to the</p> <p>17 other litigation you described?</p> <p>18 A. No.</p> <p>19 Q. Okay. How about with respect to</p> <p>20 any presentations made to the Securities</p> <p>21 and Exchange Commission?</p> <p>22 A. I don't believe so, no.</p> <p>23 Q. How about with respect to</p> <p>24 presentations made to Canadian securities</p> <p>25 regulators?</p>	<p style="text-align: right;">Page 131</p> <p>1 L. Allen</p> <p>2 A. No, I don't think so.</p> <p>3 Q. Do you know whether NERA was</p> <p>4 approached to do any analysis on behalf of</p> <p>5 BlackBerry, Morrison & Foerster, or other</p> <p>6 counsel representing BlackBerry, in</p> <p>7 connection with presentations to the</p> <p>8 Securities and Exchange Commission?</p> <p>9 A. Not that I know of.</p> <p>10 Q. Do you know whether -- that's</p> <p>11 fine.</p> <p>12 Did you review BlackBerry</p> <p>13 internal emails discussing the Detwiler</p> <p>14 Fenton report and the impact of the</p> <p>15 Detwiler Fenton report?</p> <p>16 A. Not that I recall. Not in my</p> <p>17 materials considered then I wouldn't have.</p> <p>18 I have no recollection of that but --</p> <p>19 Q. There is nothing on your list,</p> <p>20 Roman numeral 4, starting on page 5 and</p> <p>21 going over to page 6, that indicates you</p> <p>22 received any internal BlackBerry emails.</p> <p>23 A. Correct.</p> <p>24 Q. Would you have listed here, if</p> <p>25 you had received internal BlackBerry</p>
<p style="text-align: right;">Page 132</p> <p>1 L. Allen</p> <p>2 emails as among the materials you would</p> <p>3 have considered in connection with doing</p> <p>4 your report if, in fact, they were</p> <p>5 provided to you?</p> <p>6 A. Yes. It's just if they were</p> <p>7 somehow attached to a complaint or part of</p> <p>8 what Dr. Feinstein's turned over, then it</p> <p>9 would just be subsumed with some other</p> <p>10 category.</p> <p>11 Q. I understand.</p> <p>12 I'm talking about internal</p> <p>13 emails that were not publicly available.</p> <p>14 A. No, I don't. If I had received</p> <p>15 them, they would be listed under here.</p> <p>16 I've intended to make this comprehensive</p> <p>17 materials considered.</p> <p>18 Q. Ms. Allen, has class -- has any</p> <p>19 case in which you testified -- strike</p> <p>20 that.</p> <p>21 How many times have you</p> <p>22 testified in a securities case about price</p> <p>23 impact? And when I say "how many times,"</p> <p>24 if you have testified four times in the</p> <p>25 same case, we will treat that as one. I</p>	<p style="text-align: right;">Page 133</p> <p>1 L. Allen</p> <p>2 understand it was more work than one.</p> <p>3 But in how many cases have you</p> <p>4 testified on price impact in securities</p> <p>5 cases?</p> <p>6 A. I would say that most of the</p> <p>7 securities cases in which I have worked on</p> <p>8 the impact of information on the price is</p> <p>9 often an issue. So there has been lots of</p> <p>10 analysis of whether information has impact</p> <p>11 had the stock price.</p> <p>12 So that's one of the things that</p> <p>13 often happens in a securities case is</p> <p>14 what's affecting the stock price so that's</p> <p>15 very often an issue.</p> <p>16 Q. That's the fifth Cammer factor?</p> <p>17 A. No. I think the fifth -- one of</p> <p>18 the Cammer factors is about -- the Cammer</p> <p>19 factors are on market efficiency. And one</p> <p>20 of the Cammer factors is whether the stock</p> <p>21 reacts quickly to information. Whether</p> <p>22 the stock reacts to a particular piece of</p> <p>23 information, and whether there is a price</p> <p>24 impact from information is -- I mean,</p> <p>25 basically an event study.</p>

Page 134

1 L. Allen

2 So every time you do an event
3 study, you're looking at price impact.
4 You're looking at whether that -- what is
5 the impact of that event on the price. So
6 if you're just sort of talking generally
7 about the term price impact and whether
8 information affects a stock price that's
9 something I have often done in lots of
10 different matters, but more often in
11 matters that involve stock prices.

12 Q. Okay. Can you tell me in what
13 cases a class certification has been
14 denied where you have testified there was
15 no price impact?

16 A. I don't have a list of cases
17 where class certification has been denied
18 or granted. I'm not sure. I don't have
19 an answer to that.

20 Q. Let's be clear. I am asking for
21 the number of cases where class
22 certification has been denied where you
23 have testified that there was no price
24 impact and the court denied class
25 certification based on there not being

Page 135

1 L. Allen

2 proof of price impact.

3 MR. BEHA II: Objection. Asked
4 and answered.

5 A. So I'm not sure -- I don't have
6 an answer to that. I don't have a list of
7 cases where I have testified on price
8 impact and I'm not sure what you mean by
9 testify on price impact.

10 Do you mean price impact to
11 alleged misrepresentations, as I've been
12 asked to do in this case, or do you mean
13 price impact more generally, where
14 information has an impact on the stock
15 price?

16 Q. I will make it easier.

17 Let's limit it to the type of
18 testimony and report you have provided
19 here in the BlackBerry case.

20 A. I don't know what you mean by
21 that.

22 Q. Okay. How many times have you
23 testified about the absence of price
24 impact in connection with
25 misrepresentations in a securities action,

Page 136

1 L. Allen

2 let's say, since the decision on
3 Halliburton 2?

4 A. I don't know the answer to that.

5 Q. So you can't recall in the last
6 four years?

7 Why don't you take a look at
8 your list attached as to the courts all of
9 the times you have testified or provided
10 reports in the last four years and point
11 out in which of those cases.

12 Let's start with securities
13 cases.

14 A. What's your question?

15 Q. Which of the cases on your list,
16 expert reports, depositions, and testimony
17 in four years, which security cases?

18 A. I believe the third one.

19 Q. Let me rephrase that.

20 Were securities class action
21 cases -- apologies.

22 A. I believe the third one is a
23 securities class action. The fourth one
24 is a securities case.

25 Q. The third one, can you just say

Page 137

1 L. Allen

2 the title of the case?

3 A. Nikki Bollinger
4 Grae v. Corrections Corporation of
5 America.

6 Q. Any others?

7 A. The next one is, I believe, a
8 securities case. I'm not sure if it's a
9 class action or not.

10 Q. Bernstein Liebhard v. Sentinel
11 Insurance Company?

12 A. No. Artic Glacier Savings and
13 Retirement Plan v. Principal Life
14 Insurance Company.

15 Q. You think that's a securities
16 class action?

17 A. I don't know. I think it's a
18 securities litigation. I don't know if
19 it's a class action. Bernstein Liebhard
20 is not. The next one is not. Andrew
21 Meyer v. Concordia International, I
22 believe, is a securities class action.

23 The next one, Alan Hall and
24 James DePalma v. Rent-A-Center is, I
25 believe, a securities class action. The

Page 138

1 L. Allen
2 next one is not. The next one is not.
3 The next one is not. The next one, I
4 believe, is, City of Pontiac General
5 Employees' Retirement System v. Dell.
6 The next one is, I believe, a --
7 it's a security litigation. I believe
8 it's a securities class action. In Re
9 Willbros. The next one is not. The next
10 one, I believe, is a securities class
11 action, in Re Cobalt International Energy
12 Securities Litigation. The next one, I
13 believe, is a securities class action DEKA
14 Investment, et al. V. Santander Consumer.
15 The next one is not. The next
16 one, I don't believe, is. The next one is
17 Halliburton. That is a securities class
18 action.
19 Q. Not anymore.
20 A. Well, is your question are they
21 still pending?
22 Q. No. No. Go on.
23 A. SunTrust ERISA Litigation is an
24 ERISA litigation. The next one is not. I
25 don't believe the next one is a securities

Page 140

1 L. Allen
2 opinion -- I will rephrase that.
3 A. That's not my recollection. My
4 recollection is not that the court
5 rejected my opinion.
6 Q. I understand.
7 The court did not accept your
8 opinion as a basis to deny class
9 certification?
10 MR. BEHA II: Objection to the
11 form.
12 A. My recollection is the class was
13 certified. I don't recall the court
14 having an opinion on my analysis.
15 Q. I assume you testified for the
16 defendants?
17 A. I was retained by Dell in that
18 case.
19 Q. Dell was the defendant?
20 A. Dell was the defendant. I
21 believe I was retained by Dell in that
22 case.
23 Q. In Aranaz v. Catalyst
24 Pharmaceutical, did you testify that there
25 was no -- did you represent the

Page 139

1 L. Allen
2 class action. I don't believe the next
3 one is. I don't believe the next one is.
4 Halliburton again, which is. The next one
5 is not. The next one is not.
6 Atul Kumar Sood, et
7 al. V. Catalyst Pharmaceutical Partners is
8 a securities class action. I don't really
9 have a recollection of what the next one
10 is. Psychiatric Solutions v. Garden City
11 Employees' Retirement Systems and Central
12 States Southeast and Southwest Areas
13 Pension Fund is, I believe, a securities
14 class action. And the next ones are not.
15 Q. Okay. And just to be clear, in
16 the City of Pontiac v. Dell case, class
17 certification was granted there, was it
18 not?
19 A. I believe so, yes.
20 Q. Do you remember whether you
21 testified that there was no price impact
22 in that case?
23 A. I think I did, but I don't
24 recall. That's my recollection.
25 Q. The court rejected your

Page 141

1 L. Allen
2 defendants? Let's start with that.
3 A. I was retained by the
4 defendants.
5 Q. Okay. I stand corrected.
6 Did you testify there was no
7 price impact in that case?
8 A. I think I did, yes.
9 Q. Was class granted in that case?
10 A. Yes. I believe class was
11 granted, and the case was on appeal, I
12 believe.
13 Q. The class was certified by the
14 District Court?
15 A. I'm sorry?
16 Q. The class was certified by the
17 District Court?
18 A. On appeal, that's correct. And
19 then I think it settled.
20 Q. So it settled; so that's it?
21 A. What?
22 Q. So it settled, you believe?
23 A. It settled.
24 Q. So the appeals court is never
25 going to consider it?

Page 142

1 L. Allen
2 A. That would be my understanding.
3 Q. Okay. And in Halliburton, you
4 testified after remand from the Supreme
5 Court the second time around that there
6 was no price impact?
7 A. I don't know whether -- I'm not
8 sure what "after remand the second time
9 around" means.
10 Q. After Halliburton 2 was decided
11 and the case was remanded to the District
12 Court.
13 A. I testified a number of times in
14 the Halliburton case over a number of
15 years. And the class was not certified.
16 Class certification was, I think,
17 originally denied based on an analysis of
18 loss causation.
19 Q. And then the case went to the
20 Supreme Court, and they said that he was
21 error, and they sent it back, correct?
22 A. They said that loss causation
23 wasn't a -- not that my analysis of loss
24 caution was in error or that there was no
25 loss causation, but that loss causation

Page 144

1 L. Allen
2 Q. By the way, do you remember how
3 much?
4 A. I do not.
5 Q. Does \$100 million refresh your
6 recollection?
7 MR. BEHA II: I bet Kim knows.
8 MR. BROWER: I bet Kim does.
9 MS. MILLER: Probably.
10 A. That was a \$4 billion claim, I
11 think.
12 Q. He will tell you that's a great
13 result.
14 Have you ever testified for
15 plaintiffs in a securities class action?
16 A. I have worked for plaintiffs in
17 securities cases. I've worked for
18 plaintiffs in securities class actions. I
19 don't know if I've testified for
20 plaintiffs in a securities class action,
21 so --
22 Q. Any time recently?
23 A. I am currently working for
24 plaintiffs in securities class action.
25 Q. Okay. Do you agree with the

Page 143

1 L. Allen
2 wasn't an issue at the class certification
3 stage, is my understanding.
4 Q. And then the case went back to
5 the District Court and --
6 A. That's correct.
7 Q. -- the District Court certified
8 the class second time around?
9 A. And found no price impact with
10 regard to a number of the alleged
11 misrepresentations, based on my analysis.
12 Q. And then the case went back up
13 to the Supreme Court?
14 A. Oh, so, yeah. I'm not sure
15 where we are now.
16 At some point I testified on
17 price impact, and the court found there
18 was no price impact with regard to a
19 number of the alleged misrepresentations.
20 Q. Was the class certified?
21 A. The class was certified with
22 regard to one remaining alleged corrective
23 disclosures, is my recollection.
24 Q. And the case settled?
25 A. The case settled.

Page 145

1 L. Allen
2 proposition that "The idea of a free and
3 open public market is built upon the
4 theory that competing judgments of buyers
5 and sellers as to the fair price of a
6 security brings about a situation where
7 the market price reflects, as nearly as
8 possible, a just price"?
9 MR. BEHA II: Objection to form.
10 Q. You can answer.
11 A. Can you read that again?
12 Q. Do you agree with the
13 proposition that "The idea of a free and
14 open public market is built upon the
15 theory that competing judgments of buyers
16 and sellers as to the fair price of a
17 security brings about a situation where
18 the market price reflects, as nearly as
19 possible, a just price"?
20 A. I don't particularly disagree
21 with that. I think it's --
22 Q. Think it's what? You think it's
23 correct?
24 A. I don't -- I don't have any
25 particular reason to disagree with that.

Page 146

1 L. Allen
 2 MR. BROWER: Can we take break?
 3 MR. BEHA II: Sure.
 4 THE VIDEOGRAPHER: The time is
 5 2:27. We're going off the record.
 6 (Recess taken.)
 7 MR. BROWER: Mark this Allen 7.
 8 (Allen Exhibit 7, document
 9 headed BlackBerry LTD Form 40-F,
 10 marked for identification, as of this
 11 date.)
 12 (Recess taken.)
 13 THE VIDEOGRAPHER: The time is
 14 2:49. We're back on the record.
 15 By MR. BROWER:
 16 Q. Could you look at paragraph 8 of
 17 your report, please.
 18 You say that, and I quote,
 19 "Analysts, rather than believing that
 20 BlackBerry 10 was 'successful,' believed
 21 right after the alleged misrepresentation
 22 that there was a substantial risk that
 23 BlackBerry 10 smartphones could fail."
 24 Where are you getting that
 25 information from?

Page 148

1 L. Allen
 2 beginning of the alleged class period and
 3 what were there price targets of
 4 BlackBerry stock. And I have a table and
 5 a picture of that also in my report.
 6 Q. And yours is nice colored. Mine
 7 is not.
 8 A. Exactly.
 9 MR. BEHA II: I call for a copy
 10 of the color version.
 11 A. So I've done a number of
 12 analyses. I've also reviewed what the
 13 analysts were saying, so what were their
 14 models in terms of how they were valuing
 15 the stock, whether they -- you know, what
 16 are they saying. Much of that is
 17 described in my report.
 18 So I will note that the ones who
 19 specifically give probabilities of failure
 20 and success have probabilities of failure
 21 that are, you know, 90 percent,
 22 80 percent, 70 to 80 percent, and
 23 Canaccord says that the probability of
 24 success is very low.
 25 Q. Let's focus on that. We're

Page 147

1 L. Allen
 2 A. Which part are you asking about,
 3 what analysts believed?
 4 Q. Uh-huh. What analysts believed.
 5 A. Where are your --
 6 Q. Paragraph 8.
 7 A. Where are you reading from is a
 8 summary of findings. And so the rest of
 9 my report details that analysis.
 10 Q. I understand.
 11 A. But one of the things -- one of
 12 the analyses that I do is I look at the --
 13 go through all the analyst reports and
 14 determine whether they say -- whether the
 15 analyst says what is the probability of
 16 the BlackBerry 10 succeeding or failing.
 17 So there are a few analyst reports that
 18 give actual numbers and give
 19 probabilities.
 20 Q. Uh-huh.
 21 A. And I have put that in -- it's
 22 in my report. There's a table of that
 23 on -- for example, on page 32. One of the
 24 other analyses that I've done is I've
 25 looked at all the analyst reports at the

Page 149

1 L. Allen
 2 going to focus on pages 29 through 31.
 3 Actually, we will go to 32. So let me
 4 see. There were four analysts that gave
 5 probabilities.
 6 A. Yeah. Gave explicit
 7 probabilities of failure and success for
 8 the BlackBerry 10.
 9 MR. BEHA II: Sorry. What page
 10 are we looking at?
 11 MR. BROWER: 32.
 12 A. 32. So three give actual
 13 numbers, and Canaccord says very low,
 14 without giving a specific percent.
 15 Q. And the other 36 -- let's see, 3
 16 less 36 -- 33 that you have listed on
 17 page 29, didn't do some sort of numerical
 18 probability of success of the
 19 BlackBerry 10?
 20 A. They don't give a probability of
 21 success. They have price targets. And if
 22 you look at their price targets, which you
 23 can see on page 30, you will see that
 24 there's a -- a huge range of what they're
 25 expecting, and that the ones who have

<p style="text-align: right;">Page 150</p> <p>1 L. Allen</p> <p>2 given an actual probability of success,</p> <p>3 are some of them -- the other ones are in</p> <p>4 the same ranges as the ones who give the</p> <p>5 probabilities.</p> <p>6 Q. Let me ask a basic question</p> <p>7 before we get into this.</p> <p>8 Is it correct that any time a</p> <p>9 company begins selling a new product,</p> <p>10 there's a risk the product may not be</p> <p>11 well-received?</p> <p>12 A. I think there can be a risk with</p> <p>13 products that it may not be well-received.</p> <p>14 I think what -- the situation we have here</p> <p>15 is one where it was known to be extremely</p> <p>16 uncertain what the future would be for</p> <p>17 this product. It was considered highly</p> <p>18 speculative and risky.</p> <p>19 And the analyst felt that, at</p> <p>20 the beginning of the class period, you</p> <p>21 didn't know what was going to happen. You</p> <p>22 needed another quarter or two, in order to</p> <p>23 see what would happen but they thought</p> <p>24 that the likelihood of failure was very</p> <p>25 high.</p>	<p style="text-align: right;">Page 151</p> <p>1 L. Allen</p> <p>2 Q. All of the analysts thought</p> <p>3 that?</p> <p>4 A. The analysts that -- I find no</p> <p>5 analyst that gives an indication that the</p> <p>6 likelihood of success was very high. All</p> <p>7 of the analysts that have given specific</p> <p>8 numbers in terms of the probability I have</p> <p>9 detailed in my report.</p> <p>10 And, as you can see, those</p> <p>11 analysts, some of them have higher and</p> <p>12 some of them have lower price targets than</p> <p>13 average. So they're not the ones that all</p> <p>14 fall into the more pessimistic analysts</p> <p>15 about the company.</p> <p>16 Q. In fact, some of them are very</p> <p>17 optimistic, given the then current stock</p> <p>18 price?</p> <p>19 A. Some of them are more optimistic</p> <p>20 than other analysts, and some of them are</p> <p>21 less optimistic.</p> <p>22 Q. Okay. That would be --</p> <p>23 A. In general, the majority of</p> <p>24 analysts think that the stock will go down</p> <p>25 if the price target is below the current</p>
<p style="text-align: right;">Page 152</p> <p>1 L. Allen</p> <p>2 stock price at the beginning of the</p> <p>3 alleged class period.</p> <p>4 Q. Okay. By the way, of the 36</p> <p>5 analysts you have here, is that every</p> <p>6 analyst that did a report in or around</p> <p>7 March 28, 2013?</p> <p>8 A. So I think what you're referring</p> <p>9 to is a table that I have on page --</p> <p>10 Q. 29?</p> <p>11 A. -- 29 and those are all of the</p> <p>12 analysts that gave price targets for</p> <p>13 Blackberry stock after the March 29th</p> <p>14 alleged misrepresentation. So there are a</p> <p>15 bunch of analysts that are following the</p> <p>16 stock that are not giving -- there are</p> <p>17 some that are not giving price targets.</p> <p>18 Q. Okay.</p> <p>19 A. And I think I have a footnote</p> <p>20 that explains that somewhere, but --</p> <p>21 Q. Are all analyst firms the same?</p> <p>22 A. I'm not sure what your question</p> <p>23 is referring to, in what manner, but</p> <p>24 surely they're not all the same. No</p> <p>25 matter what you're referring to, I think</p>	<p style="text-align: right;">Page 153</p> <p>1 L. Allen</p> <p>2 it would be the case that all analysts are</p> <p>3 not the same.</p> <p>4 Q. Are some analysts higher quality</p> <p>5 than other analysts?</p> <p>6 A. I think you would have to define</p> <p>7 what you mean to me by "higher quality."</p> <p>8 Q. Are some analysts more</p> <p>9 influential than other analysts?</p> <p>10 A. I think some analysts have -- I</p> <p>11 know Dr. Feinstein's said that -- he</p> <p>12 seemed to define influential by analysts</p> <p>13 that had a bigger following, so the number</p> <p>14 of people who -- I don't know, subscribe</p> <p>15 to them -- or his definition of what was</p> <p>16 influential seemed to be in terms of</p> <p>17 numbers of followers.</p> <p>18 I don't know if that's -- I</p> <p>19 don't know if an analyst that has more</p> <p>20 followers is necessarily more influential.</p> <p>21 I don't know what basis Dr. Feinstein's</p> <p>22 had for that conclusion, but I recall him</p> <p>23 saying that. I have not seen any analysis</p> <p>24 of what makes an analyst, you know,</p> <p>25 whether more followers makes an analyst</p>

1 L. Allen
2 more influential.

3 Q. I didn't ask you that. So that
4 doesn't really help.

5 I asked you whether you believe
6 some analysts are more influential than
7 others. I didn't ask you what
8 Dr. Feinstein's testified to.

9 A. Yeah. I think I asked you what
10 you meant by that. And I said I recall
11 him giving the definition, which was that
12 there were more followers.

13 Q. Do you believe there are some
14 analysts who are more influential than
15 others?

16 A. I wouldn't particularly doubt
17 that. I don't know what you mean by
18 "influential."

19 Do you mean that they are -- do
20 they influence the stock more? Do they
21 influence people more? I don't know what
22 you mean. I would think regardless of
23 what you mean, it would seem likely to me
24 that some analysts are more influential
25 than others, regardless of whatever

1 L. Allen
2 there's some -- I don't know. I'm not
3 sure if that's an important difference.
4 I'm not sure what -- I wouldn't -- I
5 haven't analyzed that question. I
6 wouldn't particularly say it couldn't be
7 true, but.

8 Q. Well, did you determine, in
9 connection with preparing the chart on
10 page 29 -- strike that.

11 In connection with preparing the
12 chart on page 29, you treated all analysts
13 equally?

14 MR. BEHA II: Objection to form.

15 A. The chart on page 29 does not
16 have any subjective determinations about
17 the influence of various analysts. It's
18 an objective analysis, where I have taken
19 every single analyst report that I was
20 able to obtain or that plaintiffs and
21 their experts were able to obtain
22 regarding the company, I reviewed every
23 single analyst report that followed
24 BlackBerry stock and put together a table
25 of -- an objective table of, if they had a

1 L. Allen

2 meaning you have for "influential."

3 Q. Are some firms more equipped
4 than other firms?

5 MR. BEHA II: Objection to form.

6 A. In general, some firms have more
7 equipment and are more equipped to do
8 various things than other firms. Sure.

9 Q. For instance, just looking at
10 your list -- does Morgan Stanley -- strike
11 that.

12 Does MKM Partners have the same
13 resources as Morgan Stanley?

14 A. I don't know what you mean by
15 "resources," but my guess is different
16 analyst firms have different resources,
17 you know, kind of regardless of what you
18 might mean by "resources." So I would
19 think that different analyst companies
20 have larger numbers of people or more
21 computers or whatever, than others.

22 Q. More access to information?

23 A. I'm not sure if they have more
24 access to information or the information
25 that affects the stock price. I think

1 L. Allen
2 price target, what was their price target
3 at this point in time.

4 So this is an objective
5 replicable analysis that is not based on
6 any subjective opinions about the relative
7 influence of different analysts.

8 Q. So there was no qualitative
9 analysis done in assembling these analyst
10 companies?

11 MR. BEHA II: Objection to form.

12 What do you mean by "assembling the
13 analyst companies"?

14 MR. BROWER: That the list
15 has -- nothing in connection with
16 preparing this list was influenced by
17 any qualitative factors relating to
18 the individual firms on the list.

19 A. This was an objective replicable
20 analysis that didn't require any
21 subjective analysis about the relative
22 influence of analysts.

23 MR. BROWER: Mark this Allen 8.
24 (Allen Exhibit 8, document
25 headed Institutional Investor, marked

Page 158

1 L. Allen
2 for identification, as of this date.)
3 MS. MILLER: Could you read back
4 the last answer.
5 (Whereupon, the requested
6 portion was read back by the court
7 reporter.)
8 Q. I've marked as Exhibit 8 -- I
9 will get to Exhibit 9 -- Exhibit 7,
10 rather, later. This is a list of
11 something called the All-America Research
12 Team Institutional Investor.
13 Are you familiar with this
14 ranking?
15 A. I'm familiar with institutional
16 investor. I'm familiar that they do some
17 sort of ranking. I don't know if I've
18 seen this, or the All-America. I don't
19 have a particular recollection of this,
20 no.
21 Q. Do you understand what this
22 purports to do?
23 A. No.
24 Q. I just want to point out, Morgan
25 Stanley is below the line in your chart on

Page 159

1 L. Allen
2 page 29. Morgan Stanley is number 3 in
3 the All-American Research Team for
4 Institutional Investor.
5 Do you see that?
6 A. In 2013, it looks like?
7 Q. Yeah, in 2013.
8 A. I see there's a 3 under 2013 for
9 Morgan Stanley on this page that you've
10 handed me.
11 Q. Let's see who else is on it.
12 Just go through who is on the list,
13 regardless.
14 It's a list of 21 firms. You
15 have Morgan Stanley, Goldman Sachs,
16 Jefferies, Wells Fargo. All of those
17 firms are below the line. Those are the
18 firms that have optimistic price targets
19 for BlackBerry on your chart on page 29.
20 A. I'll just say that the thing
21 that you handed me, you say that's a list
22 of 21. It says that it's 1 to 25 of 30
23 items. So it doesn't look like it's even
24 complete.
25 Q. Complete?

Page 160

1 L. Allen
2 A. So whatever this is, it doesn't
3 seem to be a complete list of whatever it
4 is.
5 Q. Right.
6 A. So I don't -- I don't even know
7 what it is. It seems to have 21, when it
8 says it's 1 to 25 of 30. So I just have
9 no idea what this is.
10 Q. Do you see any of the firms
11 above your line? Those are the firms that
12 were pessimistic about BlackBerry on the
13 list that's here of the 21 firms, that is,
14 the first 21 firms ranked on this list?
15 A. Deutsche Bank.
16 Q. Okay. Any others?
17 A. That's what I'm doing. You're
18 finding ones that are -- where they have
19 something below the stock price.
20 Q. I'm asking above your line. The
21 ones that were, in your words, I believe
22 "pessimistic" about Blackberry future.
23 A. Well, the ones who are
24 pessimistic with the higher ones.
25 Q. Above the line.

Page 161

1 L. Allen
2 MR. BEHA II: We're talking
3 about -- right now about the ones
4 identified on your list as 1 through
5 24?
6 MR. BROWER: Correct.
7 MR. BEHA II: Okay. So he's
8 asking you to take a look at
9 Exhibit 8 --
10 MR. BROWER: 21, actually. I'm
11 sorry -- yeah.
12 A. What --
13 Q. Let's start over.
14 Okay. In connection with your
15 list on page 29 of your report, Ms. Allen,
16 how many above the line, that is, where it
17 says "BlackBerry 328 stock price 14.45,"
18 above that box -- are on the list of these
19 21 analysts in Exhibit 8?
20 A. Okay. Bank of America.
21 Deutsche Bank. Citi. Are you going to
22 also ask me how many are below? Should I
23 start doing that while I'm doing this, or
24 should I just go through this all over
25 again?

Page 162

1 L. Allen
 2 Q. I've already done below.
 3 A. UBS. Credit Suisse. I can't
 4 read one on the next line -- next page.
 5 MR. BEHA II: I think that's
 6 Jefferies.
 7 MR. BROWER: No, Jefferies is at
 8 the bottom of the first page.
 9 MR. BEHA II: Yeah, but it
 10 crosses over. They're both Number 12.
 11 MR. BROWER: Okay. You're
 12 correct. You're correct. That's how
 13 it was copied.
 14 Let me help with below the line.
 15 Goldman Sachs, RBC, Wells Fargo,
 16 Jefferies, and Morgan Stanley are on
 17 this list of 21 analyst firms; is that
 18 correct?
 19 A. They are on the list. They're
 20 on my list.
 21 Q. And --
 22 A. Are you asking whether they're
 23 on this list?
 24 Q. Yeah.
 25 MR. BEHA II: I'd just like,

Page 164

1 L. Allen
 2 with those below the line, to come up with
 3 some percentage of negative versus
 4 positive.
 5 Do you recall doing that? I
 6 think it's under the diagram.
 7 A. No. So what I have on the
 8 diagram is -- I have -- you're missing the
 9 color -- but I have a blue line that goes
 10 all the way across that shows what is the
 11 price at the beginning of the alleged
 12 class period and the time of the alleged
 13 misrepresentation. And then I have what
 14 is the average of the analysts' estimates,
 15 which is 13.55. And then I have what is
 16 the max and what is the min.
 17 Q. Uh-huh. And if you eliminated
 18 the firms that are not on Exhibit 5, would
 19 that likely raise the average?
 20 A. I don't know. I have no idea.
 21 MR. BEHA II: Could you repeat
 22 that question or read it back?
 23 MR. BROWER: Well, she said she
 24 doesn't know.
 25 MR. BEHA II: I know, but I'd

Page 163

1 L. Allen
 2 since you asked her to do it, for her
 3 to --
 4 MR. BROWER: Okay.
 5 MR. BEHA II: -- continue to
 6 identify the ones on the list.
 7 MR. BROWER: Okay.
 8 MR. BEHA II: And there are
 9 more -- more above the line than below
 10 the line -- significantly more above
 11 the line than there are below the
 12 line.
 13 MR. BROWER: Well, so far, I
 14 have five and five.
 15 MR. BEHA II: There are seven
 16 above the line. There's Nomura and
 17 BMO.
 18 BY MR. BROWER:
 19 Q. So we have seven versus five
 20 that are on the list that's Exhibit 8; is
 21 that correct?
 22 A. I believe that's correct.
 23 Q. Okay. And I recall somewhere in
 24 your report you did some sort of analysis
 25 where you averaged those above the line

Page 165

1 L. Allen
 2 like to -- I didn't catch it, and I
 3 would like to know what it was.
 4 (Whereupon, the requested
 5 portion was read back by the court
 6 reporter.)
 7 MR. BEHA II: On Exhibit 8?
 8 MR. BROWER: Yup, where -- did I
 9 say 5? I'm sorry. I apologize.
 10 Q. Did you understand I meant the
 11 list of analysts on Exhibit 8?
 12 A. I did.
 13 Q. Okay.
 14 A. I think it might -- I mean, one
 15 thing I will say is that the Seaport
 16 Group, which has a price target of \$30 is
 17 quite high and something of an outlier.
 18 So eliminating that, which I think is not
 19 on this -- whatever this piece of paper is
 20 that you gave me -- would lower the
 21 average.
 22 And I think we said there were
 23 approximately the same number in the top
 24 part as the bottom part, relative to the
 25 number that I currently have in the top

Page 166

1 L. Allen
2 versus the bottom.

3 So, you know, not doing any math
4 and not thinking about where they actually
5 are, it would look like it would actually
6 lower the price target a little bit, if
7 you -- would be my guess --

8 Q. Okay.

9 A. -- but I don't --

10 Q. Okay. That's easy math. Okay.
11 We can do the math.

12 Okay. What do you know about
13 MKM? You seem to focus on them a lot in
14 these couple of pages.

15 What's their -- their business,
16 or company?

17 MR. BEHA II: Objection to form.

18 Q. You can answer.

19 A. I wouldn't say I focus on them a
20 lot. I give an example of them. And I
21 think the example is easier to understand
22 because the math works out nicely.

23 Q. Okay.

24 A. So I try to just explain the
25 math. So I have a picture that shows the

Page 167

1 L. Allen

2 math, which is like a probability tree.
3 And then I have a paragraph that explains
4 that, because in my experience, although
5 the people that I work with do this sort
6 of thing a lot, other people have, you
7 know, other things that they do a lot and
8 are more familiar with them.

9 And so I tried to both have a
10 picture and explain the math in a
11 probability tree in words. That's why it
12 takes up a little bit of room.

13 Q. Let me ask you a question.
14 Assuming, for the moment, your chart, the
15 90/10 percent thing on page 31 -- did the
16 10 percent chance of success that this
17 chart indicates have an impact on the
18 price of BlackBerry stock?

19 A. So what this chart says -- I'm
20 not sure how to answer that question.
21 This chart says that this analyst thought
22 there was a 90 percent chance that the
23 company -- the BlackBerry 10, would fail,
24 and that if that were the case, the stock
25 price would be \$7 and that there's a

Page 168

1 L. Allen
2 10 percent chance the stock price -- the
3 BlackBerry 10 would succeed. And in that
4 case, the stock price would go up and be
5 \$40.

6 And their price target is a
7 weighted average of those, of the \$7 and
8 the \$40. And this is explaining how that
9 particular analyst price target works and
10 how -- what were their expectations of the
11 future success of the BlackBerry 10.

12 Q. Earlier we -- let's look at the
13 chart again. We can look at the chart on
14 page 30.

15 Does the difference of opinion
16 between analysts -- strike that.

17 It would be fair to say there
18 was a difference of opinion between
19 analysts at this time -- we're in March 28
20 to early April 2013 -- reflect the kind of
21 differences in judgment that we -- that I
22 asked you about earlier?

23 A. So I think what you read back to
24 me sounded like a quote from
25 Basic v. Levinson, and that's talking

Page 169

1 L. Allen

2 about an efficient market. And that
3 information, what I have found in this
4 instance, is I have not been asked to
5 analyze whether the market is efficient.

6 I have found that, at the
7 beginning of the alleged class period,
8 rather than as plaintiffs claim, because
9 the alleged misrepresentations led the
10 market to believe that the BlackBerry 10
11 would be successful, the analysts were
12 saying that it's very uncertain. We're
13 not going to know the success of this at
14 all until later, we can't tell, and that
15 they had different hypotheses about the
16 future.

17 They, in general, felt it was
18 unlikely to succeed and that the risk of
19 failure was high, but that wouldn't be
20 knowable until there was another quarter
21 or two of data and results.

22 Q. So was this an attempt to show
23 that plaintiffs' allegations are
24 incorrect?

25 A. No. This -- I don't know --

Page 170

1 L. Allen
 2 when you're saying "this," I'm not sure
 3 what you're referring to.
 4 Q. Well, what you just said was --
 5 A. I'm still answering the
 6 question.
 7 MR. BEHA II: Will you let her
 8 answer the question?
 9 MR. BROWER: Well, she hasn't
 10 answered the question.
 11 MR. BEHA II: She believes she's
 12 answering the question. She's
 13 attempting to answer the question.
 14 Please don't interrupt her in her
 15 answers --
 16 MR. BROWER: I need to know what
 17 she's thinking.
 18 MR. BEHA II: -- whether you
 19 think she's answering or not.
 20 A. You asked me whether this shows
 21 the principles of market efficiency --
 22 Q. No, I didn't ask that question.
 23 MR. BROWER: I move to strike.
 24 MR. BEHA II: Excuse me. Let
 25 her finish her response. Do not

Page 172

1 L. Allen
 2 you had previously read to me, which my
 3 recollection from hearing it was, it was
 4 quotes from Basic v. Levinson.
 5 Q. Okay. I'm going to ask you a
 6 different way.
 7 Is it fair to say that this
 8 chart, as well as the chart on page 29,
 9 reflect differences in opinions among
 10 analysts as to the likely success or
 11 failure of BlackBerry, going forward?
 12 A. I think that is one of the
 13 things that you could take away from this.
 14 Q. And some analysts were
 15 optimistic about the future of the BB10s;
 16 is that correct?
 17 A. Well, no, I wouldn't necessarily
 18 say that's true. Some analysts were more
 19 optimistic than others. But even those
 20 that are optimistic -- so, for example,
 21 let's see, Goldman Sachs, Goldman Sachs is
 22 one of the more optimistic analysts.
 23 Their price target is higher than the
 24 other price targets. Higher than average.
 25 They think the stock price is likely to go

Page 171

1 L. Allen
 2 interrupt her.
 3 A. You asked me whether what was
 4 illustrated in here were the same
 5 principles that -- what you had read to me
 6 earlier.
 7 Q. Yes.
 8 A. And the principles that you read
 9 to me earlier, I believe, come from Basic
 10 Levinson. And I believe those are about
 11 an efficient market. And I have not been
 12 asked to analyze whether the market is
 13 efficient here.
 14 I am explaining to you what the
 15 chart that I am -- have shown, what are
 16 some of the things that it told me and why
 17 I have included it and why I think it's
 18 helpful to visualize or to understand the
 19 analysis of price impact.
 20 So I have tried to give some
 21 aides to understand what's the analysis
 22 and what I have seen. So that's what I
 23 was trying to explain.
 24 My understanding of your
 25 question was, does this chart show what

Page 173

1 L. Allen
 2 up.
 3 So their current -- their price
 4 target at the beginning of the class
 5 period is that the stock is going to go
 6 up. They also think that there's an
 7 80 percent chance that the BlackBerry 10
 8 is going to fail. So I wouldn't call that
 9 being very optimistic about the
 10 BlackBerry 10. An 80 percent failure rate
 11 is, I don't think, what someone's idea is
 12 of optimism.
 13 They are more optimistic -- they
 14 have a higher price target and they have
 15 more optimism than others do, but I
 16 wouldn't say that they were optimistic.
 17 They thought it was much more likely than
 18 not that the BlackBerry 10 would fail.
 19 Q. Does Goldman Sachs's optimism,
 20 at whatever percentage that optimism is,
 21 have an impact on the price of the stock?
 22 MR. BEHA II: Objection to form.
 23 A. I don't know what any individual
 24 analyst's effect on the stock is, and I
 25 haven't tried to analyze what the effect

Page 174

1 L. Allen
2 of individual analysts' impact on the
3 stock is. I am analyzing whether the
4 alleged misrepresentations affected the
5 stock, not whether what Goldman Sachs said
6 affected the stock price.

7 Q. Did you do any analysis of
8 whether anything BlackBerry said impacted
9 Goldman Sachs' optimism about BlackBerry?

10 MR. BEHA II: Objection to form.

11 Q. You can answer.

12 A. So you're calling it "optimism."
13 I would say if you think there's an
14 80 percent chance of failure, I wouldn't
15 call that optimism. So I don't want to
16 use the word "optimism." You're calling
17 it "optimism." To me, that's not very
18 optimistic, okay?

19 So, if you want to call it that,
20 they are -- have a higher price target and
21 are relatively more optimistic, but
22 they're not optimistic about the success
23 of the BlackBerry 10.

24 At the beginning of the class
25 period, when plaintiffs claim that the

Page 175

1 L. Allen
2 company made alleged misstatements that
3 led the market to believe that the
4 BlackBerry 10 would be successful after
5 those alleged misstatements were made,
6 Goldman Sachs, who had a more -- a higher
7 price target than the average analysts --
8 and in that sense, was relatively more
9 optimistic -- still was of the belief that
10 there was an 80 percent likelihood that
11 the BlackBerry 10 would fail.

12 Q. Let's go to the chart on 29.

13 Morgan Stanley didn't try and do
14 probabilities; is that correct?

15 A. No, it's not correct that Morgan
16 Stanley didn't try to do probabilities.
17 Morgan Stanley, in their analyst report,
18 after the alleged misrepresentation at the
19 beginning of the class period, didn't
20 report what their probability -- their --
21 what their opinion was regarding the
22 current probability of success or failure
23 for the BlackBerry 10, which is not to say
24 they weren't doing probabilities. It's
25 that they didn't report it.

Page 176

1 L. Allen
2 And when they did an objective
3 and replicable analysis of what all of the
4 analysts who covered the stock were
5 finding about the probabilities or the
6 expected probabilities of the
7 BlackBerry 10, they did not indicate that
8 on their analyst report.

9 Q. That's fair.

10 Yet they had a price target of
11 \$22 a share, when BlackBerry shares were
12 trading at 14.45; is that correct?

13 A. Morgan Stanley had a price
14 target of \$22; that's correct.

15 Q. And the stock was trading at
16 14.45 at the time?

17 A. That's correct. The second --
18 they had the second highest price target.

19 Q. Does Morgan Stanley's position
20 and its -- its price target have an impact
21 on the price of BlackBerry's shares?

22 MR. BEHA II: Objection to form.

23 A. That's not something I
24 particularly analyzed. So some of these
25 reports are after the date of the stock

Page 177

1 L. Allen
2 price. So these are analysts digesting
3 the information that plaintiffs claim
4 alleged misrepresentation, and I'm saying,
5 given the alleged misrepresentation what
6 our -- what our analysts think is the
7 value of the stock. I'm not saying how
8 are the analysts affecting the stock
9 price.

10 Q. My question is, do analysts'
11 opinions have an impact on stock prices?

12 MR. BEHA II: Objection to the
13 form.

14 A. Yes, I think there are instances
15 where analysts' opinions can have an
16 impact on stock prices. I have not been
17 asked what is the effect of analyst
18 opinions in this case on the stock price.
19 I have been asked to analyze the impact of
20 the alleged misrepresentations on the
21 stock price.

22 Q. Do you recall whether or not
23 Morgan Stanley believes that BlackBerry
24 10s were off to a solid start at this
25 time, at the time they issued this report?

Page 178

1 L. Allen

2 A. That sounds like something that
3 was in their report. That sounds correct.4 Q. And do you know whether Morgan
5 Stanley said the BlackBerry 10 volumes of
6 1 million was in line, lifting ASPs to 256
7 million from 227 million?8 A. Say that again. Lifting ASPs
9 from what to what?

10 Q. 256 from 227.

11 A. That sounds correct. I think
12 those are ASPs overall, rather than
13 particularly for the BlackBerry 10. I
14 believe the 1 million number you mentioned
15 is for the BlackBerry 10, so.16 Q. That was -- by "1 million,"
17 they're referring to 1 million handsets
18 sold?19 A. Yeah, of BlackBerry 10 devices,
20 I believe, they're talking about. I
21 believe those numbers are correct. Those
22 are numbers that I believe were reported
23 by the company and are not restated.24 MR. BROWER: Mark this Allen 9.
25 (Allen Exhibit 9, document

Page 179

1 L. Allen

2 headed Morgan Stanley, marked for
3 identification, as of this date.)4 Q. On the first page, it states:
5 "BlackBerry 10 also appears off to a solid
6 start, with 1 million units in fiscal
7 quarter 4, spot-on our est, and a
8 surprising 55 percent users coming from
9 other platforms, we suspect, Android. CEO
10 Heins stated 65 to 75 percent of the Z10s
11 shipped in fiscal quarter 4 sold through
12 implying channel inventory is lean."13 Did Morgan Stanley consider
14 those all positives?15 A. I don't know what you're
16 referring to.17 Q. That they -- 55 percent of their
18 users of the BlackBerry 10s were coming
19 from other platforms?20 A. I think they say later that
21 that's one of those things they thought
22 was particularly helpful. I don't think
23 they think the 1 million units is
24 particularly positive. They're just
25 saying it's "spot-on our estimates."

Page 180

1 L. Allen

2 So that would be what they
3 expected. So that sounds -- I mean, they
4 might be -- they might be happy that it's
5 on their estimate, but in terms of a
6 positive, in terms of their -- I don't
7 think that's positive in terms of
8 evaluation.9 Q. And the fact that 65 to 75
10 percent of the 10s shipped in the quarter
11 sold through, is that positive
12 information?13 A. I think there are some that
14 think it's positive, and there are some
15 that think it's -- it's negative, so.16 Q. You understand what "selling
17 through" means?

18 A. Yes.

19 Q. Okay. Would you explain for the
20 record what "selling through" means?21 A. So "sell in" is the number that
22 BlackBerry sells to the retailers. And
23 "sell through" is the number of devices
24 that are sold through to customers, users.

25 Q. Uh-huh. And why is it negative

Page 181

1 L. Allen

2 for the actual handsets to be sold to
3 actual users rather than to stores?4 MR. BEHA II: Objection. I
5 think --

6 A. I didn't say it was --

7 MR. BEHA II: -- it misstates
8 the testimony.9 A. I didn't say it was negative
10 for --

11 Q. Well, you said --

12 A. -- handsets to be sold to users.
13 That's not what I said at all.14 Q. Well, you said some people would
15 find the sell-through number not be
16 positive.17 A. So, if they were expecting a
18 higher sell-through number, so if only
19 two-thirds were sold through -- so one of
20 the things that the analysts say at the
21 beginning of the class period is they're
22 worried about the sell-through, and that
23 that could be a problem --

24 Q. Please -- I'm sorry.

25 A. -- that --

<p style="text-align: right;">Page 182</p> <p>1 L. Allen</p> <p>2 Q. Please identify every analyst</p> <p>3 who said they were worried about</p> <p>4 sell-through at the beginning of the class</p> <p>5 period.</p> <p>6 A. Well, I think I said there was</p> <p>7 something like 55 analysts that are</p> <p>8 covering the company at the beginning of</p> <p>9 the -- I mean, as I sit here, I cannot</p> <p>10 recite that.</p> <p>11 Q. Is it set forth somewhere in</p> <p>12 your report, which analysts were saying</p> <p>13 that they were concerned about</p> <p>14 sell-through at the beginning of the class</p> <p>15 period?</p> <p>16 A. Well, some of them say that.</p> <p>17 One of the things I don't -- do I have a</p> <p>18 count of how many? Um, okay.</p> <p>19 So this one says -- this one</p> <p>20 does, for example. "Investment risks" --</p> <p>21 Q. Which page? Where are you</p> <p>22 reading from?</p> <p>23 A. -- "BlackBerry" -- I'm reading</p> <p>24 from page 2 of the Morgan Stanley analyst</p> <p>25 proposal. When they talk about risks,</p>	<p style="text-align: right;">Page 183</p> <p>1 L. Allen</p> <p>2 they talk about "BlackBerry 10</p> <p>3 sell-through slow. Inventory builds</p> <p>4 causing discounting."</p> <p>5 So that's one of the things</p> <p>6 they're noting as a risk. So this analyst</p> <p>7 is explicitly saying that they're worried</p> <p>8 about the sell-through for the</p> <p>9 BlackBerry 10s and noting that as an</p> <p>10 investment risk.</p> <p>11 Q. Okay.</p> <p>12 A. If you hand me some other</p> <p>13 analyst reports, I could continue to --</p> <p>14 Q. Okay. Would that always --</p> <p>15 would that have been -- is that not a risk</p> <p>16 with any new product, that it -- that</p> <p>17 customers won't buy it?</p> <p>18 A. I think it's a fairly unusual</p> <p>19 thing to have analyst reports that have --</p> <p>20 that talk about sell-in and sell-through.</p> <p>21 It's not a common discussion in analyst</p> <p>22 reports. It is not a common risk in</p> <p>23 general.</p> <p>24 I mean, if we were to look at</p> <p>25 other cases that I have worked on</p>
<p style="text-align: right;">Page 184</p> <p>1 L. Allen</p> <p>2 recently, I don't believe I recall any</p> <p>3 cases recently where analysts have been</p> <p>4 worried about sell-in versus sell-through</p> <p>5 and that that is something that has been</p> <p>6 listed as a risk, so.</p> <p>7 Q. I'm curious. What kind of</p> <p>8 companies have you recently worked on in</p> <p>9 connection with securities litigation that</p> <p>10 involve manufacturers of a product that</p> <p>11 sold through distributors?</p> <p>12 A. Okay. Well, let's look at the</p> <p>13 ones that are on my -- that we just --</p> <p>14 that we went through. Manufacturers of a</p> <p>15 product which sold through distributors.</p> <p>16 Q. To retail consumers. Not to</p> <p>17 governments.</p> <p>18 A. Rent-A-Center, they don't</p> <p>19 manufacture. They do sell or rent</p> <p>20 products, including phones, I believe, to</p> <p>21 consumers.</p> <p>22 Q. But they don't make them?</p> <p>23 A. No, they don't make them.</p> <p>24 Q. They just sell in? Somebody</p> <p>25 manufactures and sells in to them?</p>	<p style="text-align: right;">Page 185</p> <p>1 L. Allen</p> <p>2 A. Yeah. That's correct.</p> <p>3 Q. Okay.</p> <p>4 A. I don't particularly see another</p> <p>5 manufacturing company on the list here,</p> <p>6 but.</p> <p>7 Q. Okay. By the way, you notice</p> <p>8 that, if you're on page 5 of the Morgan</p> <p>9 Stanley report, they raise their estimates</p> <p>10 for the company.</p> <p>11 What does it mean when a company</p> <p>12 raises estimates for a company?</p> <p>13 A. It means they're raising their</p> <p>14 estimates. So, for example, if they</p> <p>15 raised their price target, it means that</p> <p>16 they now have a higher price target than</p> <p>17 they had the last time they issued a</p> <p>18 report.</p> <p>19 Q. Does that indicate they are more</p> <p>20 optimistic than they were the last time</p> <p>21 they issued report?</p> <p>22 A. I think that is generally true.</p> <p>23 Raising estimates, in general, is, you</p> <p>24 could say, being more optimistic, rather</p> <p>25 than last time.</p>

Page 186

1 L. Allen

2 Q. On page 29 of your report, how
3 many of the firms on that list raised
4 their estimates and/or price targets after
5 March 28, 2013? I'm speaking about the
6 entire list of 36 companies.

7 A. Raised their price targets
8 and/or?

9 Q. And/or their estimates for --
10 for revenues and earnings?

11 A. I don't have the answer as I sit
12 here. I don't know.

13 Q. Many?

14 A. I just don't know.

15 Q. You didn't do any analysis of
16 what the impact on the analysts were,
17 other than the information and what their
18 responses to it were, nonverbal responses?

19 A. I did look at what the -- I
20 looked at the price reaction. So the
21 market price reaction to the information,
22 I found that there's no statistically
23 significant market price reaction to the
24 information.

25 I did look at how the analysts,

Page 187

1 L. Allen

2 how they commented upon the information
3 and how they changed their valuation
4 models and what was their response to the
5 information, so.

6 Q. But you didn't assemble a list,
7 for instance, of each of the companies on
8 your list of 36 that raised their price
9 target?

10 A. No.

11 Q. And you didn't assemble a list
12 of each of the companies on your list of
13 36 companies that raised their estimates
14 for earnings per share?

15 A. No.

16 Q. Would you be surprised that the
17 third company on your list, which,
18 presumably, is the low end of price
19 targets; is that correct?

20 A. What's your question?

21 Q. That the third -- the third one
22 on your list is the low end of price
23 targets?

24 A. On page 29?

25 Q. Yeah.

Page 188

1 L. Allen

2 A. You're saying the one that has a
3 price target of 7?

4 Q. Yes. That's the low end of the
5 scale, correct?

6 A. It's at the lower end.

7 Q. Okay.

8 A. It's not as -- it's not as --

9 Q. It's not the lowest?

10 A. It's not the lowest.

11 Q. Would you be surprised if they
12 increased their price target after
13 April -- after March 28?

14 A. It doesn't surprise me, no.

15 Q. Do you know any that lowered
16 their price targets after March 28? And I
17 mean immediately, I don't mean in
18 September.

19 A. I don't. I don't recall that,
20 no.

21 Q. Do you know whether there was a
22 difference in the minds of analysts
23 whether the BB10s were going to be a
24 success and whether or not the BB10 would
25 be sufficiently successful to save

Page 189

1 L. Allen

2 BlackBerry from poor results going down
3 the road?

4 MR. BEHA II: Objection to form.

5 A. I'm trying to understand that.

6 Q. Okay. Let me give you
7 Canaccord, one of your analysts.

8 MR. BROWER: Mark this 10.

9 (Allen Exhibit 10, document
10 headed Canaccord Genuity, marked for
11 identification, as of this date.)

12 Q. All right. I've marked for you
13 a Canaccord analyst report, dated
14 March 28, 2013, which is one of the
15 ones -- what I'll call "above the line,
16 above the box" on your chart on page 29
17 who, I take it, are on the pessimistic
18 side of the box, and refer you to the
19 second bullet under "investment
20 highlights."

21 I will read it into the record:
22 "While RIM management remains bullish
23 about its BB10 platform launched January
24 30, we do not believe BB10 devices will
25 turn around its struggling business, as

<p style="text-align: right;">Page 190</p> <p>1 L. Allen</p> <p>2 initial global store surveys indicate</p> <p>3 mixed demand for the more expensive Z10</p> <p>4 smartphones. With a very low probability</p> <p>5 the market will support RIM's BB10</p> <p>6 ecosystem, we believe RIM will eventually</p> <p>7 need to sell the company."</p> <p>8 I ask you again, do you recall</p> <p>9 if analysts were concerned that the BB10,</p> <p>10 whether or not successful, would be</p> <p>11 sufficient to save the company from, for</p> <p>12 instance, needing to be sold to someone</p> <p>13 else?</p> <p>14 A. I'm still not sure I understand</p> <p>15 that question. I think you asked me</p> <p>16 something about was there a difference</p> <p>17 between being successful and something</p> <p>18 else, and I don't --</p> <p>19 Q. Well, the difference between the</p> <p>20 phone itself, the handset, being</p> <p>21 successful and the handset's success being</p> <p>22 sufficient to save the company, do you</p> <p>23 recall if analysts made that distinction?</p> <p>24 A. I recall this analyst, and I</p> <p>25 have -- I have reviewed this one before.</p>	<p style="text-align: right;">Page 191</p> <p>1 L. Allen</p> <p>2 I -- I don't -- I wouldn't particularly</p> <p>3 say that is making a distinction. So I do</p> <p>4 recall this: I would not describe this</p> <p>5 comment to be consistent with how you --</p> <p>6 of your characterization.</p> <p>7 Q. When the analysts says RIM's</p> <p>8 management remains bullish about the BB10</p> <p>9 platform, does management's bullishness</p> <p>10 have an impact on price?</p> <p>11 A. Well, one of the things that</p> <p>12 plaintiffs are alleging in this case is</p> <p>13 that management has made statements that</p> <p>14 were too bullish. So, for example, one of</p> <p>15 the alleged misrepresentations in this</p> <p>16 case is that customers were embracing the</p> <p>17 technology. And I have found that that</p> <p>18 statement had no price impact and did not</p> <p>19 affect the market.</p> <p>20 I think there are lots of times</p> <p>21 when companies make statements that sound</p> <p>22 positive that have no impact on the</p> <p>23 market.</p> <p>24 Q. Why does that occur?</p> <p>25 A. Why does that occur?</p>
<p style="text-align: right;">Page 192</p> <p>1 L. Allen</p> <p>2 Q. Yeah.</p> <p>3 A. I think companies always make</p> <p>4 statements in a positive -- or almost</p> <p>5 always make statements in a positive vein.</p> <p>6 I think it's good marketing and business</p> <p>7 to sound positive about your business.</p> <p>8 And I think, regardless of how good or bad</p> <p>9 results or, you know, financials may be,</p> <p>10 companies will describe the results in a</p> <p>11 way that, at least on the surface sounds</p> <p>12 positive.</p> <p>13 That's -- that's a common way</p> <p>14 for a company to make announcements. I</p> <p>15 think it's sort of a PR marketing type</p> <p>16 thing.</p> <p>17 Q. Do you recall whether Deutsche</p> <p>18 Bank characterized the launch of the Z10s</p> <p>19 as modestly successful?</p> <p>20 A. I don't have a specific</p> <p>21 recollection of that, no.</p> <p>22 Q. I have a question. With respect</p> <p>23 to the price targets, if a price target is</p> <p>24 below the current trading price, why</p> <p>25 would -- why would an analyst not simply</p>	<p style="text-align: right;">Page 193</p> <p>1 L. Allen</p> <p>2 have a sell recommendation?</p> <p>3 A. You mean why give more</p> <p>4 information than actually give the price</p> <p>5 target?</p> <p>6 Q. No. No. No.</p> <p>7 I'm saying if they have a price</p> <p>8 target that is below the then current</p> <p>9 trading price, why would the</p> <p>10 recommendation be anything other than to</p> <p>11 sell?</p> <p>12 A. I think because there's a bit of</p> <p>13 a timing lag, so the price targets are</p> <p>14 typically one year out. I think, in</p> <p>15 general, if the price target is above,</p> <p>16 it's generally a buy, and if it's below,</p> <p>17 it's generally a sell. But the price</p> <p>18 targets aren't for -- you know, aren't for</p> <p>19 tomorrow. They're for -- they're</p> <p>20 typically one year out, is a -- is a</p> <p>21 typical time period for a price target.</p> <p>22 Q. I'm -- I'm not that</p> <p>23 sophisticated in this.</p> <p>24 On March 28, the price of</p> <p>25 Blackberry shares was 14.45. Deutsche</p>

Page 194

1 L. Allen
2 Bank -- where is it? It's on here
3 somewhere.
4 Deutsche Bank is estimating a
5 price target of \$8, you're saying, in a
6 year, correct?
7 A. I would have to look --
8 Q. About?
9 A. -- and see what they're -- what
10 they're saying. Yeah, I think it's -- I
11 think the price target is a year out.
12 Q. Okay. Why, then, would -- and
13 when they make a -- when there's a rating
14 or a recommendation in an analyst report,
15 it's like buy, sell, or hold; is that
16 correct?
17 A. Uh-huh.
18 Q. Why would an analyst tell
19 investors to hold if it has a price target
20 of \$8 and the stock is then trading for
21 14.45?
22 MR. BEHA II: Do you want to
23 show her the report that you're
24 talking about?
25 A. Yeah, I could take a look and

Page 196

1 L. Allen
2 think it's a somewhat unusual situation.
3 I think it's because it's a time period
4 out, and it's so volatile how much the
5 stock could move in the time period.
6 Q. Okay.
7 MR. BEHA II: Let's go off the
8 record.
9 MR. BROWER: Sure.
10 THE VIDEOGRAPHER: The time is
11 3:59. We're going off the record.
12 (Recess taken.)
13 THE VIDEOGRAPHER: The time is
14 4:20, and we're back on the record.
15 BY MR. BROWER:
16 Q. Ms. Allen, what does it mean
17 when an analyst says a result, a
18 particular metric, is in line with their
19 estimates?
20 A. That it's similar to what they
21 had been expecting.
22 MR. BROWER: I will give you one
23 more of these. I think it's 12.
24 (Allen Exhibit 12, Document
25 headed Technology, Media & Telecom:

Page 195

1 L. Allen
2 see what they're doing.
3 Q. Sure. I don't think it's
4 specific. It's not specific to this one,
5 but I'm happy to.
6 MR. BROWER: 11.
7 (Allen Exhibit 11, document
8 headed Deutsche Bank Markets Research,
9 marked for identification, as of this
10 date.)
11 A. See here, they have a 52-week
12 range on the one you just gave me, which
13 is from 17.90, down to 6.30. So that's a
14 huge range.
15 Q. That's the past year.
16 A. Maybe. Yeah, you might be
17 right.
18 (Reviewing document.)
19 MR. BROWER: Let me --
20 (Whereupon, the requested
21 portion was read back by the court
22 reporter.)
23 Q. You said -- let me see the
24 document.
25 A. Yeah, I think it has to do -- I

Page 197

1 L. Allen
2 Mobile Devices, marked for
3 identification, as of this date.)
4 Q. I believe this is another one of
5 the companies on your -- above the line,
6 the pessimists, number 16 on your list.
7 And you'll notice this -- the key points
8 these analysts make is, "Gross margins
9 surge 850 points on controlled BB10
10 launch. Blackberry posted strongest gross
11 margin performance in nearly two years.
12 Gross margin of 40.1 percent was well
13 above fiscal third quarter 31.6" --
14 "print" -- I don't know what that means.
15 Was that positive information
16 from the standpoint of this analyst?
17 A. I think they thought the gross
18 margin information was positive.
19 Q. It also goes on to say,
20 "Management projected the image of a team
21 that was beginning to arrest negative
22 momentum as commentary on the call made it
23 clear the company is focused on preserving
24 service ARPU on the back of a controlled
25 BB10 launch. We came away from the call

<p style="text-align: right;">Page 198</p> <p>1 L. Allen</p> <p>2 with the idea that the widely reported Z10</p> <p>3 stockouts were more a result of managing</p> <p>4 the service base through BB 7 versus BB10</p> <p>5 sales than they were true production</p> <p>6 stockouts. We think the stock could</p> <p>7 respond positively to several possible</p> <p>8 catalysts, including the launch of the Q10</p> <p>9 QWERTY keyboard device as soon as this</p> <p>10 week and the announcement of several new</p> <p>11 service offerings."</p> <p>12 Again, this is someone with a</p> <p>13 below then-current price target. You view</p> <p>14 that as this analyst believing this is</p> <p>15 positive information they received from</p> <p>16 the company?</p> <p>17 A. No, that's not what I said. So</p> <p>18 you have cherry-picked a few comments --</p> <p>19 Q. Shame on me.</p> <p>20 A. -- within --</p> <p>21 MR. BEHA II: Please do not</p> <p>22 interrupt her.</p> <p>23 A. -- within this report that sound</p> <p>24 more positive than other comments. I -- I</p> <p>25 did say that I thought they thought the</p>	<p style="text-align: right;">Page 199</p> <p>1 L. Allen</p> <p>2 gross margin was one -- was positive. The</p> <p>3 actual gross margins that were announced</p> <p>4 were that -- that does appear what this</p> <p>5 analyst was saying. I would not agree</p> <p>6 with you -- with your characterization of</p> <p>7 generally what this analyst is saying.</p> <p>8 Q. Okay.</p> <p>9 A. And I don't think it's --</p> <p>10 Q. Take a look at the third bullet</p> <p>11 point on the first page, under "key</p> <p>12 points."</p> <p>13 "Negative momentum turning,</p> <p>14 raising estimates and price target to \$11</p> <p>15 from 6.50."</p> <p>16 Does that indicate that this</p> <p>17 analyst is more optimistic than he or she</p> <p>18 was on March 28?</p> <p>19 A. This particular analyst, I</p> <p>20 believe, did raise their price targets.</p> <p>21 They still think the price is too high,</p> <p>22 and they're saying they are not</p> <p>23 recommending that you buy this stock. So</p> <p>24 they are saying the current price of the</p> <p>25 stock is higher than they think it should</p>
<p style="text-align: right;">Page 200</p> <p>1 L. Allen</p> <p>2 be, that the market is overly optimistic.</p> <p>3 Q. Would you go over to the second</p> <p>4 page, Investment Thesis.</p> <p>5 "We expect that shares of</p> <p>6 BlackBerry may respond positively to news</p> <p>7 of the BB10 launch over the next quarter</p> <p>8 or two."</p> <p>9 That's more optimistic than this</p> <p>10 analyst had previously been or less, after</p> <p>11 March 28?</p> <p>12 A. I don't know. I would have</p> <p>13 to -- I would have to look about that.</p> <p>14 They say, "We expect RIM's new devices to</p> <p>15 launch into a crowded and increasingly</p> <p>16 competitive smartphone marketplace and</p> <p>17 believe RIM has a reasonable chance to</p> <p>18 substantially slow market share declines,</p> <p>19 but we think a growing smartphone share</p> <p>20 may be difficult for the embattled vendor</p> <p>21 over the long-term. We expect the</p> <p>22 competitive" -- "the increasingly</p> <p>23 competitive smartphone market, coupled</p> <p>24 with substantial product and service price</p> <p>25 concessions to make 2013 a challenging</p>	<p style="text-align: right;">Page 201</p> <p>1 L. Allen</p> <p>2 year. We maintain our underperform</p> <p>3 rating."</p> <p>4 Q. Then --</p> <p>5 A. So --</p> <p>6 Q. Then they raised their price</p> <p>7 target?</p> <p>8 A. Not "and then they raised their</p> <p>9 price target." They're saying at -- after</p> <p>10 this alleged misrepresentation, they are</p> <p>11 saying, You know, we think the company is</p> <p>12 embattled, that there's an increasingly</p> <p>13 competitive smartphone market. They're</p> <p>14 saying underperform. They think the stock</p> <p>15 price is too high. And they're saying</p> <p>16 that there is substantial product and</p> <p>17 service price concessions to make 2013 a</p> <p>18 challenging year for the company.</p> <p>19 Q. Go to the next page.</p> <p>20 They raise their estimates for</p> <p>21 revenues?</p> <p>22 A. I believe that's correct.</p> <p>23 Q. Something I keep forgetting to</p> <p>24 ask you.</p> <p>25 How many presentations did you</p>

Page 202

1 L. Allen
 2 give to Morrison & Foerster over the
 3 years?
 4 A. I can only recall one.
 5 Q. Are you sure?
 6 A. Am I sure I only recall one? I
 7 only recall one, as I sit here.
 8 Q. And what was the -- I believe
 9 that's listed in your list of
 10 presentations.
 11 This is not a trick question. I
 12 thought I saw it.
 13 A. Yeah. It's "High Frequency
 14 Trading, a Primer."
 15 Q. When you gave that presentation,
 16 were you retained for any particular
 17 purpose?
 18 A. No.
 19 Q. Was this by promotional --
 20 strike that.
 21 Did you give the presentation in
 22 New York or in California?
 23 A. In New York.
 24 Q. Why did you give that
 25 presentation?

Page 204

1 L. Allen
 2 analysts covering the company, and because
 3 information about the company is
 4 disseminated and quickly analyzed by the
 5 market by these analysts, and that helps
 6 to make the market efficient.
 7 So one of the ways that they
 8 impact the market is disseminating the
 9 information.
 10 Q. Do analysts also make
 11 recommendations to institutional
 12 investors?
 13 A. You say "also" as if there's
 14 something else we just said.
 15 Q. Well, say, let them -- we can
 16 pick up an analyst report on Bloomberg.
 17 A. Yeah. Analysts do make
 18 recommendations, yes.
 19 Q. You mention in your report that
 20 market professionals were aware that the
 21 BlackBerry 10s had not done well in
 22 Europe.
 23 A. So what I mentioned is that the
 24 alleged information that plaintiffs claim
 25 was inflating the stock price and withheld

Page 203

1 L. Allen
 2 A. I think I was invited for lunch,
 3 and I gave a -- a luncheon talk. I think
 4 they have a luncheon meeting.
 5 Q. Okay. When was it?
 6 A. I'm sorry. Would you -- oh,
 7 2014.
 8 Q. Okay. Were you doing work for
 9 Morrison & Foerster at the time on another
 10 matter?
 11 A. I don't believe so.
 12 Q. What impact, if any, do analysts
 13 have on the price of a stock generally?
 14 A. Well, one of the -- I haven't
 15 particularly analyzed that question. I
 16 certainly haven't analyzed that with
 17 respect to this case. I have, on
 18 occasion, analyzed whether a specific
 19 analyst report or piece of information
 20 impacted the stock price.
 21 One of the things that
 22 plaintiffs claim in this case is that the
 23 market is efficient, and one of the
 24 reasons they claim the market is
 25 efficient, because there are a number of

Page 205

1 L. Allen
 2 from the market about the lack of success
 3 in international markets was publicly
 4 available information that was known to
 5 the market, including a number of stories
 6 that plaintiffs have -- have used to show
 7 that there was negative results in the
 8 international markets regarding them the
 9 BlackBerry devices.
 10 MR. BROWER: Up to 13.
 11 (Allen Exhibit 13, Citi Research
 12 Equities, marked for identification,
 13 as of this date.)
 14 Q. I'm going to give you a Citibank
 15 analyst report dated March 24, 2013, which
 16 you quote in paragraph 54 of your report.
 17 I'm just going to point you to the first
 18 bullet point.
 19 I will read it: "This weekend
 20 BlackBerry launched in the United States
 21 its new Z10 BlackBerry product at AT&T.
 22 Given the 37 percent year-to-date rally in
 23 BlackBerry shares and a highly successful
 24 and carrier-promoted initial launch in
 25 Europe and Canada last month, investors

Page 206

1 L. Allen
 2 were expecting a similarly successful
 3 launch in the U.S."
 4 Was this analyst misled?
 5 A. I don't believe this analyst was
 6 misled, no.
 7 Q. He was not -- the information
 8 about the problems with the sales of BB10s
 9 in Europe wasn't shared with him?
 10 A. I'm sorry. I think -- so this
 11 analyst, then, I'm quoting them, you're
 12 saying, in paragraph 54?
 13 Q. Yeah. No, we -- that's where
 14 you quoted them. You didn't quote this
 15 part. I think your term was
 16 "cherry-picking."
 17 A. So what I'm saying is the
 18 analyst said, "We recently did follow-up
 19 international checks in Europe and Canada,
 20 now that the 30-day honeymoon launch
 21 period has passed, and found sales of
 22 BlackBerry Z10s have dramatically slowed."
 23 Q. Uh-huh. So is it correct that
 24 the --
 25 A. So this is information that's

Page 207

1 L. Allen
 2 coming out before the alleged
 3 misrepresentation. And what plaintiffs
 4 are claiming is this sort of information
 5 is the information that was kept from the
 6 market, but this is -- this is what I'm
 7 saying is this information is published in
 8 this analyst report.
 9 You seem to be asking me were
 10 they somehow misled because you're reading
 11 two different statements in the same
 12 analyst report as if to say that they're
 13 somehow contradictory. But the analyst, I
 14 don't believe, is trying to write
 15 contradictory information in their analyst
 16 report. I think they're trying to analyze
 17 the stock and give information.
 18 So your -- your question is
 19 somehow making the insinuation that
 20 there's something that these -- there's
 21 something contradictory here.
 22 Q. Okay.
 23 A. I don't read it that way, and I
 24 don't think that particularly makes sense
 25 for the analyst to have written the report

Page 208

1 L. Allen
 2 in this way. If they're telling you
 3 things that are contradictory, that would
 4 seem -- it wouldn't make sense for an
 5 analyst to say -- to intentionally say, on
 6 the one hand, Let me tell you one thing,
 7 and then, Let me tell you something that's
 8 the opposite and contradictory, without
 9 trying to resolve those things.
 10 So I think by your question it
 11 doesn't seem a sensible reading of this
 12 analyst report.
 13 Q. Was it your understanding that
 14 the launch in Europe was -- had been
 15 highly successful?
 16 A. I think what you -- how you term
 17 it is -- I think you can use those words
 18 differently. So I think that what this
 19 analyst is saying is that they are noting
 20 that, after a 30-day honeymoon period,
 21 things are not -- you know, things don't
 22 look as good anymore.
 23 MR. BROWER: 14.
 24 (Allen Exhibit 14, document
 25 headed Daily Edge, marked for

Page 209

1 L. Allen
 2 identification, as of this date.)
 3 Q. I give you Exhibit Number 14.
 4 It's a DailyEdge equity research report of
 5 May 9, 2013. This is after the alleged
 6 misrepresentation, March 28, as well as
 7 the misrepresentation on April 11 and 12.
 8 This says: "Update on BB10
 9 volumes: We believe the company may give
 10 an update on BB10 volume" -- where was I
 11 reading from? Oh, I'm sorry. It was the
 12 paragraph above.
 13 A. I think this is Scotiabank
 14 analyst report.
 15 Q. Yes. I'm sorry. Yes.
 16 A. Not a Daily Edge.
 17 Q. That is correct.
 18 The third bullet point, "Update
 19 on BB10 volumes: We believe the company
 20 may give an update on BB10 volumes. The
 21 Q10 has been selling very well in the U.K.
 22 and Canada, with stockouts at many
 23 locations. We estimate the company will
 24 sell approximately 3.6 million BB10
 25 devices in fiscal quarter 1."

<p style="text-align: right;">Page 210</p> <p>1 L. Allen</p> <p>2 This analyst thinks that they're</p> <p>3 doing well in Europe and Canada -- in the</p> <p>4 U.K. and Canada; is that correct?</p> <p>5 A. They say the Q10 has been</p> <p>6 selling very well in the U.K. and Canada.</p> <p>7 Q. Did you take this into -- this</p> <p>8 report into consideration when you did</p> <p>9 your report?</p> <p>10 A. Yes. This was one of --</p> <p>11 Q. Uh-uh.</p> <p>12 A. What?</p> <p>13 Q. I don't believe -- this one is</p> <p>14 not quoted in your report.</p> <p>15 A. Just because I haven't quoted it</p> <p>16 doesn't mean I haven't taken it into</p> <p>17 consideration.</p> <p>18 Q. Fair enough. Fair enough.</p> <p>19 Okay.</p> <p>20 Yes, for the record --</p> <p>21 A. Yes, I did take this report into</p> <p>22 consideration.</p> <p>23 Q. Okay. But you didn't quote it</p> <p>24 in your report?</p> <p>25 A. I don't know if I quoted it in</p>	<p style="text-align: right;">Page 211</p> <p>1 L. Allen</p> <p>2 my report. But you can tell that I took</p> <p>3 it into consideration because it has an</p> <p>4 Allen Bates number stamp on it.</p> <p>5 Q. Let's talk about selling in and</p> <p>6 selling through.</p> <p>7 You indicate numerous times in</p> <p>8 your report that the market was aware of</p> <p>9 Blackberry's revenue recognition policy</p> <p>10 and, therefore, was not misled by its</p> <p>11 accounting.</p> <p>12 Do you recall that?</p> <p>13 A. Yes, I think that's -- something</p> <p>14 along those lines. Are you asking did I</p> <p>15 testify to that or do I have something</p> <p>16 like that --</p> <p>17 Q. It's in your report.</p> <p>18 A. I -- think you have loosely</p> <p>19 worded what you're saying, but revenue</p> <p>20 recognition policies is an issue that I</p> <p>21 address as one of the issues that</p> <p>22 plaintiffs claim is an alleged</p> <p>23 misrepresentation.</p> <p>24 Q. And you reach the conclusion, I</p> <p>25 believe, that investors were not misled by</p>
<p style="text-align: right;">Page 212</p> <p>1 L. Allen</p> <p>2 the revenue recognition policy; is that</p> <p>3 correct?</p> <p>4 A. That the alleged</p> <p>5 misrepresentations regarding the revenue</p> <p>6 recognition did not have price impact and</p> <p>7 that investors were aware of differences</p> <p>8 between sell-in and sell-through.</p> <p>9 Q. Okay. Do you know whether or</p> <p>10 not BlackBerry provided statistics on</p> <p>11 sell-in and sell-through, typically, in</p> <p>12 their public filings?</p> <p>13 A. So I am aware that the company,</p> <p>14 during the class period, gave some numbers</p> <p>15 regarding the number of units shipped,</p> <p>16 which were -- as well as giving some</p> <p>17 numbers in terms of sell-through numbers.</p> <p>18 So there -- but there was not sell-in and</p> <p>19 sell-through numbers by device, for</p> <p>20 example.</p> <p>21 Q. Okay.</p> <p>22 A. In terms of units or dollars.</p> <p>23 Q. Okay. Are you aware that, at</p> <p>24 the end of the first quarter, the June</p> <p>25 2013 quarter, BlackBerry refused to</p>	<p style="text-align: right;">Page 213</p> <p>1 L. Allen</p> <p>2 provide selling figures to analysts at the</p> <p>3 analyst meeting, the conference call?</p> <p>4 MR. BEHA II: Objection to the</p> <p>5 form.</p> <p>6 Q. You can answer.</p> <p>7 MR. BEHA II: It just -- it</p> <p>8 assumes fact and lacks foundation.</p> <p>9 A. I think the company gave numbers</p> <p>10 in terms of the number of units overall</p> <p>11 that were sold-in. I don't think the</p> <p>12 company gave breakdowns, in terms of</p> <p>13 revenue or units by device.</p> <p>14 Q. Can you describe what their</p> <p>15 revenue recognition policy was, "theirs"</p> <p>16 being BlackBerry's -- I'm sorry, I'm</p> <p>17 sorry -- at the beginning of the class</p> <p>18 period? My apologies.</p> <p>19 A. They've maintained the same</p> <p>20 policy throughout the class period.</p> <p>21 There's certain criteria that the sales of</p> <p>22 devices, for example, must meet in order</p> <p>23 for the revenue to be recognized.</p> <p>24 And, you know, they lay that out</p> <p>25 in their filings. I couldn't recite it as</p>

Page 214

1 L. Allen
2 I sit here, but I have read it a number of
3 times.
4 Q. I'm going to give you what's
5 been marked as Allen Exhibit 7.
6 For the record, Allen Exhibit 7
7 is a form 40-F for the period ending
8 3/2/12, filed on 3/28/13.
9 Ms. Allen, just for starters,
10 this is the Canadian version of a 10-K.
11 A. Yeah.
12 Q. All right. And page 6 --
13 MR. BEHA II: Sorry, just to be
14 clear, I don't know what you mean by
15 "Canadian version of a Form 10-K," but
16 it's -- it's a filing with the SEC.
17 It's not a Canadian filing.
18 I just find that confusing.
19 A. It's a filing that international
20 companies file in the U.S. with the SEC,
21 who are not U.S. companies.
22 Q. Okay. You understood the
23 question.
24 A. Yeah, but I -- I did not give
25 a --

Page 216

1 L. Allen
2 A. 20. Okay.
3 Q. Okay. It goes on, "Revenue
4 recognition: The company recognizes
5 revenue" --
6 A. I'm on the wrong page.
7 Q. Are you with me? Oh, sorry.
8 Page 20. It's Bates number 361, just, if
9 that helps.
10 A. Okay.
11 Q. And I highlighted it, just to
12 make it easier.
13 I will represent for the record
14 there is yellow highlighting on the marked
15 exhibit that we added, just to -- it's a
16 thick document.
17 Okay. Could you -- you know
18 what? Read it yourself, the revenue
19 recognition policy stated there, as well
20 as a hardware discussion.
21 A. (Reviewing document.)
22 Okay.
23 Q. Okay. Can you tell me what
24 inputs management at BlackBerry puts into
25 determining whether or not to recognize

Page 215

1 L. Allen
2 Q. Okay.
3 A. I did not give a very clear
4 answer.
5 Q. Okay. By the way, just look at
6 page 16, under "strategy."
7 A. 16.
8 Q. "Company strategy is based on
9 the following" -- third bullet point --
10 "building on the successful launch of
11 BlackBerry 10 by continuing to roll out
12 BlackBerry 10s to customers around the
13 world while holding the position of
14 BlackBerry 7 products for entry-level,
15 low-cost markets."
16 Do you recall reviewing that in
17 connection with preparing your report?
18 A. I don't specifically recall
19 this, but.
20 Q. Well, did you read this -- this
21 document, Exhibit 7, corner to corner?
22 A. No.
23 Q. Okay. Did you scan it?
24 A. Yes.
25 Q. Take a look at page 20.

Page 217

1 L. Allen
2 revenues on handsets, from the disclosure
3 here?
4 A. Can I tell you what the inputs
5 are?
6 Q. Yeah.
7 A. Oh, I don't know. I mean, I
8 haven't tried to do that.
9 Q. Okay. Can you --
10 A. Maybe I could. I don't --
11 Q. Can you figure it out from what
12 they've disclosed here?
13 A. As we sit here right now, can I
14 find out what all the inputs are? I don't
15 know if I could. I mean, are you saying
16 that's what -- where specifically they get
17 the data or -- I'm not sure what your
18 question is.
19 Q. No. What data goes into the
20 analysis?
21 A. Oh, what are all the data items
22 that go into it? I don't know.
23 Q. And it's not disclosed here?
24 A. Are all the data items that got
25 -- that go into the analysis disclosed

Page 218

1 L. Allen

2 here?

3 Q. Yeah.

4 A. No. They're not.

5 Q. What data item --

6 A. It would not be my expectation
7 that all the data items that typically go
8 into an analysis in a filing such as this
9 would be typically disclosed.

10 Q. What data -- what data is
11 provided?

12 A. I'm not sure what your question
13 refers to.

14 Q. What data --

15 A. There's lots of data provided in
16 this filing.

17 Q. What data is provided under the
18 revenue recognition policy for hardware?

19 A. Typically, data isn't provided
20 in a policy. A policy states principles.
21 Data is provided in other parts of an SEC
22 filing typically.

23 Q. Do you know where else in this
24 SEC filing BlackBerry provided disclosure
25 of the inputs that went into its revenue

Page 219

1 L. Allen

2 recognition for hardware?

3 A. I wouldn't expect the inputs to
4 particularly be in a -- I don't know. I
5 mean, that's not something I've thought
6 about before, and it seems surprising.
7 This is an example of what is policy for
8 revenue -- that the SEC filing is telling
9 you, once we apply these principles that
10 we're explaining, what are some results
11 and what are some numbers.

12 So, for example, the -- the
13 company, you know, has their reporting
14 of -- I'm trying to think of an example --
15 property, plans, and equipment or
16 something. And, typically, they might
17 have some policy of how they're valuing
18 their property, plans, and equipment. And
19 they would give you the number of the
20 value.

21 They wouldn't tell you all the
22 inputs that went into the number that they
23 put down for the value of their property,
24 plans, and equipment. That's not what an
25 SEC filing typically does.

Page 220

1 L. Allen

2 Q. Let me ask you a different
3 question.

4 Under "hardware," it says,
5 "Revenue from sales of BlackBerry wireless
6 hardware products, which includes their
7 handsets, is recognized from persuasive
8 evidence of: An arrangement exists,
9 delivery has occurred, sales price is
10 fixed or determinable, and the collection
11 is probable."

12 Who makes those determination?

13 A. Who makes which determination?

14 Q. Those series of determinations
15 that are described in the sentence.

16 A. Well, I mean -- so, in my
17 experience, companies have certain
18 criteria and make certain determinations.
19 They have accountants that review their
20 accounting and their numbers, and there's
21 a fair amount of -- you know, there can be
22 some back-and-forth. So I think they
23 typically have an accounting company that
24 does some sort of a review. They have
25 people in -- generally, in, sort of, the

Page 221

1 L. Allen

2 finance area of a company, that help put
3 together the information that goes into
4 a -- a filing such as this.

5 Q. Do you know if that's true on --
6 do you know whether or not -- strike that.

7 Do you know whether or not it's
8 management's responsibility for providing
9 the determinations?

10 A. I'm not sure I understand that
11 question.

12 Q. Does management make the
13 determination of whether the criteria
14 met -- in the sentence I read to you are
15 met?

16 A. I think the process works more
17 the way I described, that there's a -- a
18 finance department that's responsible for
19 doing the accounting and the financial
20 statements. And there's an auditing firm
21 that does a review of audited financial
22 statements.

23 Q. And that's for an annual report.
24 What about quarterly?

25 A. I think a similar process

Page 222

1 L. Allen
 2 occurs. Quarterly statements are
 3 typically not audited --
 4 Q. The --
 5 A. -- but the quarterly statements
 6 roll up into an annual statement. So much
 7 of the information that goes into the --
 8 the -- you know, once you have three
 9 quarters of the statement, then the annual
 10 report has an additional quarter, but
 11 there's some -- generally some consistency
 12 of policy and methodology in the quarterly
 13 statements to the then rolled-up fourth
 14 quarter and annual report.
 15 MR. BEHA II: Could we go off
 16 the record for just a minute?
 17 MR. BROWER: Yeah.
 18 THE VIDEOGRAPHER: The time is
 19 4:57. We're going off the record.
 20 (Recess taken.)
 21 THE VIDEOGRAPHER: The time is
 22 5:05. We're back on the record.
 23 BY MR. BROWER:
 24 Q. Okay. Let's look at the next
 25 paragraph on page 20. "The company

Page 224

1 L. Allen
 2 A. I think the general belief is
 3 that estimates have been done to the best
 4 of, you know, our ability and have been
 5 done reliably. That -- that's my --
 6 Q. And they rely on reported
 7 financial results contained in SEC
 8 filings?
 9 A. I think analysts can and do rely
 10 on financial statements in SEC filings.
 11 Q. Okay.
 12 MR. BROWER: Mark this Allen 15.
 13 (Allen Exhibit 15, SEC Form 6-K
 14 for June 2013, marked for
 15 identification, as of this date.)
 16 Q. I put before you Allen
 17 Exhibit 15, which is the first quarter
 18 2014 Form 6-K, dated -- I will tell you
 19 exactly when it was dated -- dated June
 20 28, 2013.
 21 A. Dated when, did you say?
 22 Q. June 28, 2013.
 23 A. Oh.
 24 Q. This is the -- the first
 25 quarterly report after the annual report

Page 223

1 L. Allen
 2 records reductions to revenue for
 3 estimated commitments related to price
 4 protections right of return and for
 5 customer incentive programs."
 6 Who does the estimation?
 7 A. I don't know.
 8 MR. BEHA II: I'll just object
 9 and say that the operation of
 10 Blackberry accounting functions is
 11 totally outside the opinions --
 12 MR. BROWER: Okay.
 13 MR. BEHA II: -- being offered,
 14 you know, and Ms. Allen's expertise,
 15 so.
 16 MR. BROWER: Okay.
 17 A. I don't know who does --
 18 Q. Do anal -- do analysts --
 19 A. I don't know who does --
 20 estimation, was that your word?
 21 Q. Uh-huh.
 22 Do analysts -- strike that.
 23 Do analysts rely, when they
 24 review results of operations, that the
 25 estimates have been done properly?

Page 225

1 L. Allen
 2 we just looked at, Exhibit 14.
 3 A. Yeah.
 4 Q. Okay. And this was --
 5 MR. BEHA II: The annual report
 6 was Exhibit 7.
 7 MR. BROWER: Sorry. Exhibit 7.
 8 Thank you.
 9 Q. And just for the record, this is
 10 the BlackBerry equivalent of a Form 10-Q
 11 that it files with the SEC because it's a
 12 foreign corporation?
 13 A. Yes. Well, I think that's
 14 correct.
 15 Q. Let's look at page 6. It says
 16 "critical accounting policies and
 17 estimates: The preparation of the" --
 18 A. Hold on. I --
 19 Q. You're not there? It should
 20 be -- do we have the same document?
 21 MR. BEHA II: It may be easier
 22 to use the Bates numbers.
 23 MR. BROWER: Mine is 234.
 24 Q. Do you have 234? Or that could
 25 be wrong.

Page 226

1 L. Allen
 2 A. Mine says 206 on the bottom.
 3 MR. BEHA II: Yeah, mine does
 4 too.
 5 MS. MILLER: So you guys have a
 6 different --
 7 MR. BROWER: They have a
 8 different document.
 9 MS. MILLER: Okay.
 10 Q. Can I see the exhibit back for a
 11 minute?
 12 A. Sure (handing).
 13 Q. Thank you.
 14 MR. BROWER: No, my copy is
 15 different. I apologize. My copy is
 16 different. Correct document, wrong
 17 copy. I will find the page.
 18 Can I go off the record just for
 19 a second? I may just have to
 20 substitute the exhibit.
 21 MR. BEHA II: Okay.
 22 THE VIDEOGRAPHER: Time is 5:11
 23 p.m. We're going off the record.
 24 (Recess taken.)
 25 THE VIDEOGRAPHER: The time is

Page 227

1 L. Allen
 2 5:13, and we're back on the record.
 3 BY MR. BROWER:
 4 Q. "Critical Accounting Policies
 5 and Estimates," on page 234, Bates number,
 6 states:
 7 "The preparation of the
 8 consolidated financial statements requires
 9 management to make estimates and
 10 assumptions with respect to the reported
 11 amounts of assets, liabilities, revenues
 12 and expenses, and the disclosure of
 13 contingent assets and liabilities. These
 14 estimates and assumptions are based upon
 15 management's historical experience and are
 16 believed by management to be reasonable
 17 under the circumstances. Such estimates
 18 and assumptions are evaluated on an
 19 ongoing basis and form the basis for
 20 making judgments about the carrying values
 21 of assets and liabilities that are not
 22 readily apparent from other sources.
 23 Actual results could differ from these
 24 estimates."
 25 Is that your understanding of

Page 228

1 L. Allen
 2 how they determine whether or not to
 3 recognize revenue?
 4 MR. BEHA II: Objection to form.
 5 A. I don't think this is really
 6 very specific about revenue recognition.
 7 I think they have a section that's on
 8 revenue recognition.
 9 Q. They do? Could you show it to
 10 me? Or "point it out" would be a better
 11 word.
 12 A. I mean, perhaps they just
 13 reference their policy as described in
 14 their annual filing.
 15 Q. Perhaps. But they don't.
 16 A. I don't recall. I -- I thought
 17 I had seen in one of the 6-Ks, the
 18 description of the revenue recognition
 19 policy. That's my recollection, but.
 20 Q. You don't recall if it was the
 21 first quarter ended June 28th, do you?
 22 A. No. I don't particularly recall
 23 that, no.
 24 Q. Okay. All righty.
 25 What does it mean when the

Page 229

1 L. Allen
 2 company says "sales are in line" --
 3 A. So "The following discussion
 4 should be read together with the
 5 consolidated financial statements."
 6 Q. Ms. Allen, it's not a treasure
 7 hunt. You don't have to keep looking for
 8 it.
 9 A. Okay. You asked me the
 10 question, so --
 11 Q. You -- you don't --
 12 A. -- I'm not --
 13 Q. You don't know where it is in
 14 the document, if it's in there, without
 15 going page by page?
 16 A. First you asked me if I could
 17 find it, and now you're not -- now
 18 you're --
 19 Q. Uh-huh. Now I'm letting you off
 20 the hook.
 21 A. Now you're interrupting me
 22 trying to answer your question, but --
 23 Q. I'm letting you off the hook.
 24 A. -- as I sit here, I don't know
 25 what page it's on or if it's in here.

Page 230

1 L. Allen
 2 Q. Okay. Okay.
 3 Could you go to page 12 --
 4 MR. BEHA II: David, please stop
 5 interrupting the witness.
 6 Q. Could you go to page 12, please?
 7 A. Which page 12 are we on now?
 8 Q. I'm sorry. Go to 239. Start
 9 with 239, by the Bates number.
 10 Okay. Starting at the last
 11 sentence on the page.
 12 A. Yes.
 13 Q. "Approximately 40 percent of
 14 handheld devices shipped were
 15 BlackBerry 10 smartphones. The decline in
 16 the volume of Blackberry devices shipped
 17 was primarily a result of decreased demand
 18 of the company's older device models in a
 19 very competitive environment, partially
 20 offset by the continued introduction of
 21 BlackBerry 10 smartphones into certain
 22 markets in the first quarter of fiscal
 23 2014."
 24 You see that?
 25 A. I do.

Page 232

1 L. Allen
 2 summary of what are the paragraphs to
 3 follow. So this is some bullet point
 4 summaries.
 5 Q. Did any of the analysts say that
 6 the launch had not been a failure as of
 7 June 28, 2013?
 8 A. There's -- I'm recalling one of
 9 the analysts, CIBC, after the June 28th
 10 alleged misrepresentations, they say they
 11 think that -- that, you know, what was
 12 actually the, sort of, you know, alleged
 13 "bad news," that while it was corrective
 14 in driving the price down, they're saying
 15 that was what they were expecting.
 16 They're expecting a sort of
 17 staggered approach to introducing new
 18 devices. And they actually think things
 19 are still on track, given their
 20 hypothesis. So I do recall CIBC saying,
 21 Yeah, others think this -- the news to
 22 date has been bad news, but this was
 23 our -- this was what we were expecting.
 24 We were expecting this to happen, and we
 25 think, you know, it's still on track.

Page 231

1 L. Allen
 2 Q. Okay. Do you see anything in
 3 this paragraph dealing with sell-ins
 4 versus sell-throughs of BlackBerry 10 or
 5 other handsets?
 6 A. I don't particularly see
 7 anything, no.
 8 Q. Let's put that aside just for a
 9 minute, the document.
 10 You indicate that, as of June
 11 28, the market believed the launch of the
 12 BlackBerry 10 had been a failure. I'm
 13 reading from paragraph 67 of your report.
 14 A. Paragraph 67?
 15 Q. Uh-huh.
 16 A. I say: "I find that the June 28
 17 alleged misrepresentation that
 18 BlackBerry 10 was well-received did not
 19 have price impact because analysts, right
 20 after the alleged misrepresentation,
 21 rather than believing that BlackBerry 10
 22 smartphones had been well-received, stated
 23 essentially the opposite, that the launch
 24 of BlackBerry 10 had been a failure."
 25 And this is a little bit of a

Page 233

1 L. Allen
 2 So it was not because of the
 3 alleged misrepresentations that plaintiffs
 4 claim, nor was it consistent with
 5 plaintiffs' claim that this was a
 6 corrective disclosure in correcting the
 7 truth, but CIBC was saying, Yeah, this was
 8 what we thought was going to happen, and
 9 we think we're still on track, given our
 10 hypothesis.
 11 Q. By the way, a number of your
 12 statements in this section, June 28 and
 13 August 12, indicates that the statements
 14 plaintiffs allege were false and
 15 misleading. The analysts believed the
 16 opposite of the statements from the
 17 company.
 18 Do you recall that? I'm going
 19 to go one by one, but I'm summarizing.
 20 A. They believe the opposite of
 21 what plaintiffs claim was allegedly false
 22 and misleading in the statements.
 23 Q. Okay. So, for --
 24 A. So plaintiffs are claiming
 25 that --

1 L. Allen

2 Q. Take a look at paragraph 68
3 for -- just as an example.

4 A. Paragraph 68?

5 Q. 69. I apologize.

6 A. (Reviewing document.)

7 I'm not sure what the question
8 is, now that I'm looking at that.

9 Q. Sure. I understand.

10 The plaintiffs -- the plaintiffs
11 allege the company said the BlackBerry 10s
12 were well-received.

13 Did you check -- I believe you
14 testified earlier you actually checked the
15 document cited in the Complaint to at
16 least confirm that what plaintiffs said
17 BlackBerry said was actually said; is that
18 correct?

19 A. I don't know that I did say
20 that. I think what I testified before
21 is -- you asked what assumptions I had.
22 And my analysis was under the assumption
23 that what plaintiffs claim was false, or
24 that the statements shouldn't have been
25 said -- that I adopted that. I -- I

1 L. Allen

2 didn't test whether those statements
3 should or should not have been said, in
4 that --

5 Q. If plaintiffs correctly quoted
6 defendants as saying that the
7 BlackBerry 10 smartphones were
8 well-received, is it your view that the
9 analysts disbelieved BlackBerry?

10 A. I think I would say they took no
11 real meaning from the statement that it
12 was well-received, that they had the data
13 and the understanding of -- that the
14 company saying it was well-received was
15 not attributed by the analysts to tell
16 them anything, that that's the sort of
17 statement that companies make that are
18 positive and sound positive, but that, you
19 know, may be described, as puffery, or not
20 particularly meaningful to the market.

21 But it's not what is my opinion
22 of what that statement means. What I have
23 done is analyze what did the analysts in
24 the market take away from the statement,
25 so.

1 L. Allen

2 Q. Okay. So paragraph 79, you say:
3 "I find that analysts right after the
4 alleged misrepresentation" -- I think
5 we're still at -- now we're at August
6 12 -- "rather than believing that
7 consumers were 'embracing' Blackberry 10,
8 stated essentially the opposite, that the
9 launch of the BlackBerry 10 had been a
10 failure."

11 So, again, if plaintiffs
12 correctly quoted the defendants as saying
13 consumers were embracing BlackBerry 10s in
14 their August 12 statement, is it your view
15 that the analysts disagree?

16 A. I think it's a similar answer.
17 So I think what the company was actually
18 saying is they were embracing the
19 technology. And the -- I find that there
20 is no analyst that repeated that statement
21 or changed their valuation or did anything
22 with regard to that statement. And what
23 the analysts are actually saying after
24 that is inconsistent with what plaintiffs'
25 alleged misrepresentation claim of a

1 L. Allen

2 misrepresentation about that statement.

3 So whether that statement really
4 means what plaintiffs are claiming and
5 whether that is a misrepresentation or not
6 a misrepresentation is not something that
7 I've analyzed. I have analyzed whether
8 that statement has had the impact -- has
9 impacted the price of BlackBerry stock.

10 Q. Do you believe a curative
11 disclosure requires that the disclosure be
12 a mirror-image correction?

13 A. No. I wouldn't particularly say
14 I believe that.

15 Q. And you understand that this --
16 this circuit, that an event can occur that
17 reflects a prior misrepresentation?

18 A. I think events can occur in all
19 sorts of similar ways. Events don't occur
20 differently in one circuit than another.
21 I have no opinion there are different
22 types of events that occur in one circuit
23 than another circuit.

24 Q. Okay. I'm actually not asking
25 you -- I'm asking you about, are you

Page 238

1 L. Allen
2 familiar with the Southern District --
3 strike that -- the Second Circuit loss
4 causation requirements?

5 MR. BEHA II: Ms. Allen is not
6 offering an opinion on loss causation,
7 and she's also not offering an opinion
8 -- a legal opinion about what the
9 legal requirements for anything are.

10 MR. BROWER: Actually, Ms. Allen
11 does offer, in paragraph 88 of her
12 report, a discussion of what is or is
13 not a curative disclosure. And that
14 implies a loss causation analysis.

15 MR. BEHA II: It doesn't. And I
16 don't believe she's talking about a
17 legal analysis of what a curative
18 disclosure is on causation.

19 BY MR. BROWER:

20 Q. Paragraph 88: "Further, a
21 review of analyst commentary after June
22 28" -- start again.

23 Paragraph 88: "Further review
24 of analysts' commentary after the June 28
25 alleged curative disclosure yields no

Page 239

1 L. Allen
2 evidence that analysts believe that the
3 March 28 alleged misrepresentations or
4 BlackBerry's accounting for revenue in
5 4Q13 had assured them that BlackBerry 10
6 smartphones were successful at the time
7 the misrepresentation was made or would be
8 successful in the future." Period.

9 What -- what is your point
10 there, ma'am?

11 A. For one, I think you read a
12 couple of words wrong. I talk about a
13 corrective disclosure, and you said a
14 different word.

15 Q. I said something different than
16 "corrective." I missed the -- I missed
17 the high point?

18 A. You did.

19 Q. All right. First sentence --
20 MR. BEHA II: You said
21 "curative."

22 A. I think you had a couple of
23 other --

24 Q. Okay.

25 A. But now that we have said that

Page 240

1 L. Allen
2 you may not have read the sentence
3 correctly, your question was, what's the
4 point of the sentence?

5 Q. What point are you trying to
6 make in the first sentence in
7 paragraph 88?

8 A. I'm saying a review of the
9 analysts' commentary after the corrective
10 disclosure yields no evidence that's
11 consistent with one of the alleged
12 misrepresentations, is -- is one of the
13 things that I'm saying.

14 Q. What does that mean?

15 What would you expect to see?

16 A. Well, for example, what you
17 wouldn't expect to see is analysts saying,
18 This is just what we thought was going to
19 happen, which is one of the things that
20 the CIBC analyst said. So despite the
21 alleged misrepresentations, the analyst
22 said, Yeah, we're not surprised by this.
23 This is where we thought we'd be.

24 There are other analysts that
25 say there are things that happened this

Page 241

1 L. Allen
2 quarter that we were afraid would happen,
3 and they have happened, and this is --
4 this is -- and there are other negative
5 things that are announced in this -- in
6 this announcement that analysts say is new
7 negative information that's newly released
8 to the market.

9 They're not saying, How could
10 this have happened? We thought that this
11 had -- was going to be successful.
12 They're saying there are things that have
13 happened that were along the lines of
14 something we knew full well was a
15 possibility.

16 Q. So, in essence, they're saying
17 the impact on the price of the stock is a
18 result of other events, not the revelation
19 that the statements, in the beginning of
20 the class period or in the middle of the
21 class period, were false?

22 A. That's not particularly what
23 this says, no. I think that -- that may
24 also be true. It's not un -- that's not
25 inconsistent with some of the things that

1 L. Allen

2 I have found. That's not particularly
3 what this sentence says.

4 Q. Okay. That's your proposition
5 with respect to the June 28th
6 announcement?

7 A. The sentence that we have been
8 reading is a conclusion that I found,
9 based on an analysis that I did. I'm not
10 sure what you're talking about is a
11 proposition.

12 You then said, Is this
13 conclusion the same as something else?

14 And I said, No, it's not the
15 same, but your conclusion is also
16 something that -- that may also be true,
17 but is not particularly what this
18 particular sentence says and is not -- of
19 this particular -- this particular
20 sentence is saying what is the result of
21 an analysis that I did.

22 Q. Okay. I'm asking more
23 generally.

24 Is your thesis that the impact
25 on the price that occurred on June 28 and

1 L. Allen

2 thereafter was the result of information
3 unrelated to the alleged
4 misrepresentations that plaintiffs allege
5 occurred before and on June 28?

6 A. The question you've now just
7 asked me is what is my thesis? I don't
8 have a thesis. This isn't a theoretical
9 paper, where I have some sort of a point
10 of view that I am trying to point out.
11 I've been asked to do an analysis. I've
12 done an objective, reliable, scientific
13 analysis of what is -- whether there is
14 price impact from the alleged
15 misrepresentations, and I have found that
16 there is not price impact from the alleged
17 misrepresentations.

18 One of the things that I have
19 found which supports a point which is
20 consistent with my findings of no price
21 impact is that analyst commentary after
22 the first alleged corrective disclosure
23 doesn't -- and there are a lot of analysts
24 covering the company -- doesn't -- is not
25 consistent and doesn't yield any evidence

1 L. Allen

2 that the analysts had believed that the
3 alleged misrepresentations at the
4 beginning of the class period in March,
5 had assured them that the phones were
6 successful at that time, or would be
7 successful in the future.

8 Q. September 20, you found that
9 there was no price impact resulting from
10 the misrepresentations that plaintiffs
11 alleged before September 20; is that
12 right?

13 A. No. What I found is that there
14 is no price impact from the alleged
15 misrepresentations when made. So what
16 I've been analyzing is whether there is
17 price impact from the alleged
18 misrepresentations when made.

19 And one of the things I have
20 looked to, to see if there's evidence of
21 price impact, is not only what happened at
22 the time of the alleged
23 misrepresentations, but also what happened
24 at the time that, allegedly, "corrective
25 information" of the alleged

1 L. Allen

2 misrepresentations was made and entered
3 into the market.

4 So I have reviewed information
5 around the alleged corrective disclosures,
6 and from that analysis, along with all the
7 other analyses, I've found that there is
8 no price impact from the alleged
9 misrepresentations.

10 Q. Okay. Now, for a layperson like
11 myself, I'm going to have to break that
12 down a little bit.

13 In connection with determining
14 whether or not there was price impact
15 connected to a misrepresentation, is one
16 of the things that economists do is to
17 look at the corrective disclosure and what
18 happened to the price when the alleged
19 corrective disclosure occurred?

20 A. So one of the things that can --
21 the most direct way of looking at price
22 impact from an alleged statement or event
23 is to look how the market reacts when
24 an -- an alleged statement is made. A
25 less direct method is to look at when that

<p style="text-align: right;">Page 246</p> <p>1 L. Allen</p> <p>2 statement is reversed or changed.</p> <p>3 So, in a context such as this,</p> <p>4 one can look at the time of the alleged</p> <p>5 misrepresentations, when an alleged</p> <p>6 fraudulent statement is made, and look how</p> <p>7 the market reacts then. It can also be</p> <p>8 helpful to look when an allegedly</p> <p>9 fraudulent statement is corrected, because</p> <p>10 that can give an indication of what was</p> <p>11 the impact when an alleged fraudulent</p> <p>12 statement was made.</p> <p>13 So the analysis that I have done</p> <p>14 here is both to analyze all of the alleged</p> <p>15 misstatements and what was the market</p> <p>16 reaction and market commentary when made</p> <p>17 and how did that change, as well as, when</p> <p>18 the allegedly fraudulent statements were</p> <p>19 allegedly corrected.</p> <p>20 Q. Was there a price movement --</p> <p>21 strike that.</p> <p>22 Was there a statistically</p> <p>23 significant change in BlackBerry price</p> <p>24 with the announcement on September 20?</p> <p>25 A. The end of the class period</p>	<p style="text-align: right;">Page 247</p> <p>1 L. Allen</p> <p>2 September 20, like, the end of any alleged</p> <p>3 class periods in securities class actions,</p> <p>4 is a statistically significant price drop.</p> <p>5 Q. If you look at Allen Exhibit 6,</p> <p>6 it was from around \$14.48 to \$10.46.</p> <p>7 A. This is a document that you</p> <p>8 showed me earlier. You showed me two</p> <p>9 documents, and you said, didn't they --</p> <p>10 neither of which I had produced, and you</p> <p>11 said didn't they confirm each other</p> <p>12 because they had the same numbers? And we</p> <p>13 went through that, and we decided they</p> <p>14 don't have the same numbers.</p> <p>15 Q. I recall the two documents --</p> <p>16 A. So you showed me two documents</p> <p>17 that you say report to show BlackBerry</p> <p>18 stock prices, and one shows the high and</p> <p>19 the low and the other one showed intraday</p> <p>20 stock prices. And the high and the low</p> <p>21 from the one document that you showed me</p> <p>22 was not consistent with the stock prices</p> <p>23 in the other.</p> <p>24 So neither of these are</p> <p>25 documents that I produced. They appear to</p>
<p style="text-align: right;">Page 248</p> <p>1 L. Allen</p> <p>2 be documents that Dr. Feinstein produced,</p> <p>3 and they don't appear to be consistent</p> <p>4 with each other. So I would not refer to</p> <p>5 these to have any confidence of what</p> <p>6 BlackBerry's actual stock price was.</p> <p>7 Q. That's fine.</p> <p>8 What was the drop in stock</p> <p>9 price? What was the drop in stock price</p> <p>10 as a result of the September 20, 2013,</p> <p>11 announcement?</p> <p>12 A. I don't know what the</p> <p>13 September 20 price was as a result, so</p> <p>14 this is a -- one of the things you do an</p> <p>15 event study for, if you want to say what</p> <p>16 is the result of it. You can look at how</p> <p>17 much the stock price drops.</p> <p>18 And I have a picture of the</p> <p>19 stock price in my report, on page 11. And</p> <p>20 there is a stock price drop at the end of</p> <p>21 the class period, as there is at the end</p> <p>22 of most securities class periods.</p> <p>23 Q. And is it your conclusion that</p> <p>24 the drop in price had nothing to do with</p> <p>25 the alleged misrepresentations that</p>	<p style="text-align: right;">Page 249</p> <p>1 L. Allen</p> <p>2 plaintiffs allege?</p> <p>3 A. No, that is not my opinion.</p> <p>4 It's my opinion that, after review of the</p> <p>5 alleged corrective disclosure and the</p> <p>6 reaction to it, that does not support</p> <p>7 price impact from the alleged</p> <p>8 misrepresentations. It's my opinion that</p> <p>9 plaintiffs have brought this case because</p> <p>10 they find the stock price drop, and they</p> <p>11 have made allegations that have some</p> <p>12 relationship to the stock price drop.</p> <p>13 That is how a securities class action</p> <p>14 works.</p> <p>15 So the fact that there's some</p> <p>16 relationship between a stock price drop</p> <p>17 and the allegation is not itself proof of</p> <p>18 price impact, but is only evidence of how</p> <p>19 plaintiffs and plaintiff counsel bring</p> <p>20 forward securities class actions.</p> <p>21 Q. How much was the relationship</p> <p>22 between the stock price and the corrective</p> <p>23 disclosure -- the alleged corrective</p> <p>24 disclosure?</p> <p>25 A. I don't understand that</p>

<p style="text-align: right;">Page 250</p> <p>1 L. Allen</p> <p>2 question.</p> <p>3 Q. You said that there's some</p> <p>4 relationship to the stock price drop from</p> <p>5 the September 20, 2013, announcement; is</p> <p>6 that correct?</p> <p>7 A. No. I said there's some</p> <p>8 relationship between the -- that</p> <p>9 plaintiffs have put forward a complaint</p> <p>10 that alleges something that bears some --</p> <p>11 so plaintiffs' counsel sees a stock price</p> <p>12 drop, and that's a potential to -- for</p> <p>13 money, and if they can claim that there's</p> <p>14 some sort of misrepresentation that's</p> <p>15 somehow related to it, that's how you can</p> <p>16 put forward a securities class action.</p> <p>17 So just saying that there's</p> <p>18 some -- there are some words and there are</p> <p>19 some similar -- there's some sort of a</p> <p>20 word relationship between -- and some</p> <p>21 similar themes in what's announced at a</p> <p>22 stock price drop and what is a claim in a</p> <p>23 securities class action, only goes to show</p> <p>24 how plaintiffs and counsel have put</p> <p>25 together a claim. It's not an analysis of</p>	<p style="text-align: right;">Page 251</p> <p>1 L. Allen</p> <p>2 why the stock price is dropping or how --</p> <p>3 or what is price impact.</p> <p>4 I'm not saying that the alleged</p> <p>5 misrepresentation caused the stock price</p> <p>6 drop. I'm saying that plaintiffs have put</p> <p>7 forward some sort of a complaint where the</p> <p>8 things have some, at least, superficial</p> <p>9 relationship to each other or it</p> <p>10 wouldn't -- it wouldn't make sense to file</p> <p>11 a claim.</p> <p>12 MR. BROWER: I forget what</p> <p>13 number we're up to -- 16.</p> <p>14 (Allen Exhibit 16, document</p> <p>15 headed BlackBerry News Release, marked</p> <p>16 for identification, as of this date.)</p> <p>17 Q. I put before you what's been</p> <p>18 marked Allen Exhibit 16. This is the</p> <p>19 September 20, 2013, BlackBerry press</p> <p>20 release.</p> <p>21 You understood, did you not,</p> <p>22 that the company took a significant charge</p> <p>23 with respect to writing off BlackBerry 10</p> <p>24 handsets?</p> <p>25 A. They took an accounting charge,</p>
<p style="text-align: right;">Page 252</p> <p>1 L. Allen</p> <p>2 yes.</p> <p>3 Q. An accounting charge is a</p> <p>4 reduction of revenue; is that right?</p> <p>5 A. No, I don't think they took a --</p> <p>6 I don't think they took a charge to</p> <p>7 revenue. I think they took a charge to</p> <p>8 inventory.</p> <p>9 Q. When you take a charge to</p> <p>10 inventory, what's the impact on your net</p> <p>11 profits?</p> <p>12 A. If you're looking at -- charges</p> <p>13 can hit the -- hit the bottom line of an</p> <p>14 income statement, so they can reduce</p> <p>15 reported income.</p> <p>16 Q. The company also changed its</p> <p>17 accounting policy with respect to sales of</p> <p>18 BlackBerry 10 handsets?</p> <p>19 A. No. It's not my understanding</p> <p>20 that they changed their policy. I believe</p> <p>21 they kept the same policy, and they, I</p> <p>22 think, reconfirmed their policy right</p> <p>23 after the end of the alleged class period.</p> <p>24 So I think they have maintained the same</p> <p>25 policy and have been consistent with the</p>	<p style="text-align: right;">Page 253</p> <p>1 L. Allen</p> <p>2 same policy. Applying the same policy,</p> <p>3 because circumstances had changed during</p> <p>4 the class period, resulted in booking</p> <p>5 revenue for BlackBerry 10 devices at</p> <p>6 sell-through rather than sell-in.</p> <p>7 But it is in compliance with the</p> <p>8 same stated revenue policy that we read</p> <p>9 earlier in the deposition.</p> <p>10 Q. What's your understanding of the</p> <p>11 circumstances that changed between</p> <p>12 March 28, 2013, and the second quarter of</p> <p>13 2013?</p> <p>14 A. Well, I think there are a lot of</p> <p>15 circumstances that change, but some of the</p> <p>16 circumstances that change with regard to</p> <p>17 the change in their booking, becoming less</p> <p>18 assured that the sales price was</p> <p>19 determinable and collection was reasonably</p> <p>20 assured, were, I think, you know, in part,</p> <p>21 increasing competition and lack of sales</p> <p>22 and consumer interest in the BlackBerry 10</p> <p>23 devices.</p> <p>24 Q. And these were events that</p> <p>25 occurred between June 28 and September 20?</p>

Page 254

1 L. Allen

2 A. Between June 28 and
3 September 20, yes. I think there was
4 negative events that occurred. And the
5 company became -- felt that -- yes, there
6 were events that occurred between June 28
7 and the end of the class period.

8 Q. What's the basis -- your basis
9 for that statement, your factual basis?

10 A. Well, the company made
11 statements to that effect. A number of
12 the analysts made statements to that
13 effect. The analysts, throughout this
14 time period, are doing their own research
15 and checks on what is happening -- you
16 know, what is happening at the retail
17 stores. They do checks on -- I know one
18 of them looked at Google trends, I guess,
19 in terms of how people are, I assume,
20 typing in the name of whatever it is
21 they're interested in buying.

22 So there's a lot of information
23 on negative trends that were occurring
24 during this time period, much of which is
25 in analyst commentary, and the company

Page 255

1 L. Allen

2 reports some of that information in its
3 statements.

4 Q. Which statements?

5 A. Well, they have a statement, a
6 press release I believe, right at the end
7 of the class period. They have another
8 filing.

9 Q. That's Exhibit 16?

10 A. Yeah.

11 Q. Yeah.

12 A. Their filing which occurs a
13 little bit after that has a discussion
14 of --

15 MR. BROWER: Let's mark this 17.
16 (Allen Exhibit 17, SEC Form 6-K
17 for October 2013, marked for
18 identification, as of this date.)

19 Q. Is that the filing after the
20 press release you referred to?

21 A. Yes, I believe so.

22 Q. For the record, this is the
23 October 1st, 2013, Form 6-K filed with the
24 Securities and Exchange Commission by
25 BlackBerry Limited.

Page 256

1 L. Allen

2 MR. BEHA II: This is 17?

3 MR. BROWER: Yes.

4 THE WITNESS: Yes.

5 Q. There is a bit more discussion
6 in this quarterly report on revenue
7 recognition than they had in the prior
8 quarterly report; is that fair?

9 A. Yes. So they say here there
10 were no changes to the company's revenue
11 recognition policy in the second quarter.
12 However, given the developments in the
13 second quarter, the company has provided
14 further detail on the application of its
15 existing policy.

16 Q. Do they describe what the
17 developments were?

18 A. They discussed increased
19 competition, at least in this press
20 release, earlier.

21 Q. How about in Exhibit 17?

22 A. They're saying the sell-through
23 levels for BlackBerry 10 devices decreased
24 during the second quarter of fiscal 2014,
25 causing the number of BlackBerry 10

Page 257

1 L. Allen

2 devices in the channel to increase above
3 the company's expectations.

4 "In order to improve
5 sell-through levels and stimulate global
6 demand for BlackBerry 10 devices, the
7 company continued to execute on marketing
8 campaigns and reduced the price on new
9 shipments of BlackBerry Z10 smartphones
10 during the second quarter. Additionally,
11 the company plans to implement further
12 sales incentives with its carrier and
13 distributor payments to increase
14 sell-through, which could be applicable to
15 the 10 devices.

16 "As a result, the company
17 determined that it could no longer
18 reasonably estimate the amount of
19 potential future sales incentives that may
20 be offered on the BlackBerry 10 devices.
21 Therefore, the company concluded that the
22 delivery of these devices did not meet the
23 criteria for revenue recognition."

24 I skipped a couple of words here
25 and there --

1 L. Allen

2 Q. That's okay.

3 A. -- to make it --

4 Q. They go on, on the second page,
5 to say, "Significant judgment was applied
6 by the company to determine whether
7 shipment of devices had met the company's
8 revenue recognition criteria."

9 A. That's -- that's the -- that's
10 the beginning of the paragraph that I was
11 reading from.

12 Q. Okay. Yeah.

13 A. So they are -- they do have some
14 discussion of what happened.

15 Q. Yeah.

16 A. That is the paragraph I just
17 read.

18 Q. And it's your understanding that
19 it's the same significant judgment on the
20 part of management, in prior quarters, to
21 determine whether or not to book revenues
22 upon sell-in rather than sell-through?

23 A. I'm not sure I understand that
24 question.

25 My understanding is they've

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2 applied the same revenue recognition
3 methodology, and they're describing what
4 has happened during the second quarter
5 that, given their policy, would mean that
6 they are now going to book the
7 BlackBerry 10s on a sell-through rather
8 than a sell-in basis.

9 Q. According to the analyst, was
10 the company facing sell-through problems
11 in the end of the first quarter of 2013?

12 A. They -- so whether you call it a
13 problem or not a problem, as you asked me
14 earlier, did people think that two-thirds'
15 to three-quarters' sell-through on the
16 BlackBerry 10 that the company announced
17 at the beginning of the class period, was
18 that good news or bad news, I think some
19 thought it was better than they expected,
20 some thought it was worse than they
21 expected, and others thought it was
22 actually lower than what the company was
23 announcing.

24 So I think -- I think, all
25 along, including at the beginning of the

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2 class period, the market was aware that
3 there's a difference between sell-in and
4 sell-through, and that, ultimately, if
5 there isn't good sell-through, that the --
6 the product is likely to be a failure.

7 And that is something that has
8 been a concern all along and something
9 that the -- the market has been watching,
10 and closely watching.

11 Q. In fact, at the end of the first
12 quarter, some analysts were already
13 discussing the risk of write-downs, with
14 respect to the BB10s?

15 A. Yes. They were aware right from
16 the beginning that this was something that
17 could happen. So the very thing that
18 plaintiffs are alleging was withheld from
19 the market and -- was, in fact, known to
20 the market and was known as a risk.

21 So, from the beginning of the
22 class period, the analysts are saying they
23 were aware that there was a risk that
24 there would not be sell-through of these
25 products and that the BlackBerry 10 would

1 L. Allen

2 not succeed, and that that would hurt the
3 company.

4 Q. So, as I understand -- so from
5 March 28 -- strike that.

6 From March 28, 2013, analysts
7 knew that write-downs of BB10 handsets was
8 a risk?

9 A. Yes. I think it's something
10 that the company even put in their -- its
11 disclosure.

12 Q. Writing down the product?
13 Writing off the product?

14 A. That there are potential for
15 write-downs, yes. I believe that's
16 something that the company stated, but
17 it's certainly something that the market
18 was aware of.

19 Q. On the BlackBerry 10s?

20 A. On -- yes, if the BlackBerry is
21 a failure and the company has produced a
22 whole bunch of BlackBerry 10s -- so if the
23 market, for example, is thinking that
24 the -- the chance of the BlackBerry 10
25 being a 90 percent failure if you've

Page 262

1 L. Allen
 2 manufactured and made a whole bunch of
 3 BlackBerry 10s, and you've got them in
 4 inventory and the product is a failure,
 5 that that is a likely circumstance that
 6 there will have to be write-downs of
 7 inventory.
 8 Q. Did analysts in the market rely
 9 on management with respect to recognizing
 10 revenues in the first quarter of 2013 on a
 11 sell-in basis?
 12 MR. BEHA II: Objection to form.
 13 A. I don't understand that
 14 question.
 15 Q. Did analysts rely on management
 16 of BlackBerry with respect to the
 17 appropriateness of booking revenues based
 18 on the sell-in of BlackBerry 10s during
 19 that quarter?
 20 A. Just repeating the question
 21 doesn't make me understand it any better.
 22 Q. Oh. Do analysts rely on
 23 management for financial statistics?
 24 A. I think analysts rely on
 25 financial disclosures. Analysts often

Page 263

1 L. Allen
 2 rely on financial statistics, yes.
 3 Q. Okay. And in this first quarter
 4 of 2013, BlackBerry booked revenues based
 5 on the sell-in of BlackBerry 10s; is that
 6 correct?
 7 A. That's correct.
 8 Q. Okay. So that -- so that
 9 analysts would have relied on management
 10 for the decision to book BlackBerry 10s on
 11 a sell-in basis?
 12 MR. BEHA II: Objection to form.
 13 A. I don't know that analysts care
 14 about what decision the company makes.
 15 What they do care about is the business of
 16 the company. So if the company says, you
 17 know, we've come to the conclusion this is
 18 the appropriate accounting method to use
 19 and the market understands it, other than,
 20 you know, being accused, I suppose, of
 21 accounting fraud, I don't think the market
 22 has an opinion.
 23 I mean, I guess they have some
 24 opinion. They find it somewhat more
 25 helpful to have a -- it's easier to

Page 264

1 L. Allen
 2 understand numbers if you don't make a
 3 change. So some of the analysts felt that
 4 the change from sell-in to sell-through
 5 made it harder to tie numbers and make it
 6 a little bit harder to -- to work with.
 7 But I don't believe that analysts have a
 8 particular reason to care what accounting
 9 policy a company adopts in general.
 10 Q. But they didn't change the
 11 accounting policy right, BlackBerry,
 12 between the second -- first and second
 13 quarters?
 14 A. That's correct.
 15 Q. Okay. They just made -- changed
 16 their judgment as to whether or not they
 17 could sell the BlackBerry 10s?
 18 A. Given a change in the market.
 19 So they -- they found that, given the
 20 changes that occurred in the second
 21 quarter, that the changes were such that
 22 their accounting policy -- that they felt
 23 they would have to do price concessions or
 24 other things, such that they felt --
 25 Q. Do you know --

Page 265

1 L. Allen
 2 A. -- made more sense to book the
 3 revenue, given their accounting policy, at
 4 a sell-through basis rather than a
 5 sell-in, for the BlackBerry 10 devices.
 6 Q. Do you know what the
 7 sell-through was during the first quarter
 8 of 2013?
 9 A. Overall, I think it was 6. -- I
 10 don't know. I did. At some point, I did
 11 know the numbers of -- sell-through?
 12 Q. Sell-through in the first
 13 quarter of 2013.
 14 A. For all devices that they do --
 15 Q. For the BlackBerry 10s.
 16 A. Oh. The company, as I sort of
 17 previously said, they -- they tended to
 18 report total numbers of sell-in and
 19 sell-through for all devices. They tended
 20 to not break it down by device.
 21 Q. Do you know if they provided
 22 sell-through statistics in the second
 23 quarter -- at the end of the first quarter
 24 of 2013 -- strike that.
 25 Do you know whether they -- I'll

Page 266

1 L. Allen
2 start again.
3 A. Okay.
4 Q. Do you know whether they
5 provided sell-through figures on June 28,
6 2013?
7 MR. BEHA II: That was asked and
8 answered.
9 A. Yes, I do believe they provided
10 sell-through numbers after the first
11 quarter announcement, for all devices, as
12 I believe they had before, and they also
13 provided sell-in numbers.
14 Q. Okay.
15 A. I don't believe they broke it
16 down by -- by device.
17 Q. Okay.
18 MR. BROWER: Could we take a
19 break?
20 MR. BEHA II: Yes.
21 MR. BROWER: Oh, actually,
22 before we do that, I -- can -- let's
23 go back for a minute. I want to
24 speedily do something.
25 Q. Did you take a look at the third

Page 267

1 L. Allen
2 quarter report and events in the third
3 quarter of 2013? It's the third quarter
4 of 2014, but --
5 A. Right.
6 Q. -- you know what I mean, the one
7 that ends November 30, 2013?
8 A. You know, I think I did. I
9 don't recall now what happened.
10 MR. BROWER: Let me just give
11 you this. Will have you mark that to
12 close the gap.
13 (Allen Exhibit 18, SEC Form 6-K
14 for December 2013, marked for
15 identification, as of this date.)
16 Q. All right. If you go to page --
17 for the record, this is the 6-K, dated
18 December 20, 2013 -- I misspoke. I said
19 November 30. This is the third quarter
20 for BlackBerry in 2000- -- for their 2014
21 fiscal year, I believe -- 2013 fiscal
22 year.
23 Take a look at page 9, using the
24 Bates number --
25 MR. BEHA II: 2014. It's the

Page 268

1 L. Allen
2 calendar year in which the fiscal year
3 ends. So we're in 2013, but it's the
4 2014 fiscal year.
5 MR. BROWER: Thank you.
6 Q. If you look at page 9, the
7 company now provides a little more
8 substantive discussion of its revenue
9 recognition policy than had been provided
10 in prior filings; is that correct?
11 A. No. I think the one we just
12 looked at had more discussion.
13 Q. Well, it says it's doing more
14 than it did before?
15 A. Well, maybe it goes on -- it's a
16 little short page here.
17 Q. And then it keeps going.
18 A. I don't know if this is -- I'm
19 not sure if this is more or less than the
20 other one.
21 Do you want me to compare?
22 Q. No, I don't want you to compare.
23 Do you know whether they took an
24 additional write-off of BlackBerry 10
25 products in the third quarter?

Page 269

1 L. Allen
2 A. I don't recall. I would imagine
3 it says in here, but I have no
4 recollection.
5 Q. Take a look at page 13.
6 At the bottom, they talk about
7 the write-off charge to inventory of
8 \$1.6 billion.
9 A. Yes, I do see an inventory
10 charge discussed here.
11 Q. Those were -- from the
12 description here that's in connection with
13 the BlackBerry 10s again?
14 A. It says "primarily attributable"
15 to the BlackBerry 10s.
16 Q. So that adds up to approximately
17 a \$2 billion write-off of inventories of
18 BlackBerry 10s during the two quarters?
19 MR. BEHA II: Objection to the
20 form. It mischaracterizes the
21 document.
22 A. Yeah, I don't think that's
23 necessarily what it says.
24 Q. Okay. Did you do any analysis
25 of whether any of the write-off in the

Page 270

1 L. Allen
 2 third quarter was of inventory that should
 3 have been written off in the second
 4 quarter?
 5 A. I did not do that, no.
 6 Q. That was outside the scope of
 7 your retention?
 8 A. Yes.
 9 Q. Okay.
 10 MR. BROWER: Off the record.
 11 THE VIDEOGRAPHER: The time is
 12 6:10. We're going off the record.
 13 (Recess taken.)
 14 THE VIDEOGRAPHER: The time is
 15 6:33. Back on the record.
 16 MR. BROWER: Mark this Allen 19.
 17 (Allen Exhibit 19, list of
 18 names, marked for identification, as
 19 of this date.)
 20 BY MR. BROWER:
 21 Q. Okay. Ms. Allen, is it your
 22 experience that when analysts are
 23 surprised by management, they typically
 24 complain that they were fooled or lied to?
 25 A. "Surprised by management"

Page 272

1 L. Allen
 2 not true, I think analysts' commentary can
 3 be -- can be different.
 4 Can say, Well, we don't
 5 understand how that's the case. They told
 6 us something quite different before; or,
 7 That doesn't seem consistent with what
 8 they said; or, That changes our
 9 understanding about the past.
 10 Q. Do they typically accuse
 11 management -- in such a circumstance, do
 12 they typically, in the reports, accuse
 13 management of being liars?
 14 A. I don't know if they use the
 15 word "liars." I think they can say
 16 something like, This sounds -- We had a --
 17 I think it depends. If they feel that the
 18 company was actually lying, I think that
 19 they can. If they feel that they -- I
 20 think they can make an indication that
 21 this is, Different than what we were led
 22 to believe about what had happened in the
 23 past, which is different than, I found out
 24 something about the future, something
 25 changed.

Page 271

1 L. Allen
 2 meaning they had expected something else
 3 and then management says something
 4 different?
 5 Q. Yeah.
 6 A. I'm not sure that being
 7 surprised is the same thing as being
 8 fooled. I think management is saying, for
 9 example, This quarter is -- whatever --
 10 you know, This quarter something is
 11 happening. And that could be a surprise.
 12 I think if management says
 13 something that indicates last quarter was
 14 completely different than what the market
 15 had thought, then I do think they --
 16 there's some indication that analysts say,
 17 Well, wait a minute, we were under a
 18 different impression about what you said.
 19 So I think there's something
 20 different about -- management can issue a
 21 statement that is a surprise, so it's not
 22 what they were expecting, but for
 23 management to say something that leads the
 24 market to think that what they -- what
 25 management had previously told them was

Page 273

1 L. Allen
 2 Q. Do you -- you have an
 3 understanding of the changes in management
 4 that took place at BlackBerry between
 5 September 20 and December 20th of 2013?
 6 A. Personnel changes, is that what
 7 you mean?
 8 Q. Management, yes.
 9 MR. BEHA II: Between -- what
 10 were the dates?
 11 MR. BROWER: September 20, 2013,
 12 and December 20, 2013.
 13 A. As I sit here, I don't recall
 14 that. If there were changes, I'm pretty
 15 sure I read about them and had some
 16 understanding.
 17 Q. You know that the CEO was
 18 terminated?
 19 A. I probably did know that, if
 20 that's what happened during that time, but
 21 at the moment, I don't particularly
 22 remember that.
 23 Q. Are you aware the CFO was
 24 ultimately terminated?
 25 A. I honestly don't have a specific

Page 274

1 L. Allen
2 recollection of who the -- I don't have a
3 specific recollection of that right now.
4 Q. Are you aware that BlackBerry
5 brought a new person to become CEO from
6 the outside of the company after September
7 20, 2013?
8 A. As I said, as I'm sitting here,
9 I don't recall. If you reminded me with
10 some of the names, it might come back to
11 me, but I'm just not -- I'm not --
12 Q. Mr. Chen. Does that help?
13 MR. BEHA II: C-H-E-N.
14 A. Yeah, I do have some
15 recollection of that, but it's not
16 something that I had particularly focused
17 on or --
18 Q. If you look at the second
19 quarter report -- I think it's
20 Exhibit 17 --
21 A. Okay.
22 Q. -- look at the last page, you
23 see who signed the document?
24 A. Yeah. Bidulka.
25 Q. Did you -- you're aware he was

Page 275

1 L. Allen
2 the CFO?
3 A. Yes.
4 Q. Where he was terminated after
5 this document was filed?
6 A. I don't recall that he was
7 terminated. I do recall the name Chen,
8 and I do recall some changes, now that you
9 say that, but I -- I don't recall --
10 Q. Could you look at the next
11 prior, which I believe is exhibit -- well,
12 take a look at Exhibit 7. It's the big,
13 fat one.
14 Look at the last page and see
15 who signed it.
16 A. Okay. So this one is earlier,
17 right?
18 Q. Yeah.
19 A. It looks like its Bidulka again.
20 Q. Mr. Chen?
21 A. No. Bidulka, CFO.
22 Q. Keep going backwards. That's
23 forward.
24 A. What?
25 Q. Keep going backwards.

Page 276

1 L. Allen
2 A. What's backwards? I'm going to
3 the end. Isn't backwards the end?
4 Q. No. Go the other way. There's
5 another certification.
6 A. Heins --
7 Q. Yeah.
8 A. -- is the CEO.
9 Q. Yes.
10 A. Yes.
11 Q. You understand he was terminated
12 after September 20?
13 A. I recall some change. I don't
14 recall a termination.
15 Q. Okay.
16 A. I don't have a specific
17 recollection of that.
18 Q. Is -- just in general, is
19 termination of the CEO and CFO a
20 meaningful event to a corporation?
21 A. It can be a meaningful event. I
22 mean, it -- it does affect employees
23 often, who -- sure, it can be meaningful.
24 Q. Can you -- I've marked that
25 Exhibit 19.

Page 277

1 L. Allen
2 Do you know any of the people on
3 that list personally?
4 A. I don't believe so, no.
5 Q. Would it be fair to say you
6 don't know what the background or
7 education of any of those people are?
8 A. That would be fair to say.
9 Q. Okay. And as far as you know,
10 you've never done any business with them
11 or know anything about them personally?
12 A. The names are not familiar to
13 me.
14 MR. BROWER: Subject to our
15 ongoing fights over discovery and
16 documents, which you're aware of and
17 Ms. Allen doesn't have to be involved
18 with, we're done. We don't have
19 anything further today.
20 MR. BEHA II: Okay. I'm just
21 going to ask a couple of questions,
22 Ms. Allen.
23 MR. BROWER: That should open
24 the door.
25 EXAMINATION BY

Page 278

1 L. Allen

2 MR. BEHA II:

3 Q. Ms. Allen, just to be clear, are
4 all of the materials that you considered
5 or relied upon in forming your opinions
6 and writing the report disclosed in your
7 report?

8 A. Yes, I believe they are --

9 MR. BROWER: Objection.

10 Leading.

11 Sorry.

12 A. They're disclosed either very
13 specifically or in terms of a category.

14 So, for example, I have a
15 category of SEC filings, I believe. And I
16 believe all of the materials that I
17 considered were provided to counsel for
18 turnover to plaintiffs' counsel.

19 Q. And are there any documents or
20 materials that anyone at Morrison &
21 Foerster or BlackBerry provided to you in
22 connection with your engagement in this
23 matter that are not listed?

24 A. All of the materials that were
25 considered in my report were turned over

Page 279

1 L. Allen

2 and listed in my report -- in my reports,
3 both of my reports.

4 Q. Thank you.

5 A. No additional materials.

6 Q. Do you recall earlier today
7 there was some discussion of the term
8 "price maintenance"?

9 A. I do.

10 Q. And just as a reminder, what's
11 your understanding of that term?

12 A. Understanding -- my
13 understanding of the term as I was asked
14 about it today, was in the situation that
15 we're looking at now in the securities
16 class action, where an alleged
17 misrepresentation, rather than being
18 expected to move the price at the time of
19 the misrepresentation, would be expected
20 to have a price impact relative to not
21 having the alleged misrepresentation.

22 So a situation where the alleged
23 misrepresentation impacts the price, but
24 not because you see the price reaction
25 after it's made, but the difference

Page 280

1 L. Allen

2 between having the alleged
3 misrepresentation and not having the
4 alleged misrepresentation would be a
5 difference in the price.

6 Q. And you agreed with Mr. Brower's
7 proposition that there could be a price
8 impact even if there was not price
9 movement at the time that the alleged
10 misrepresentation was made?

11 A. That's correct.

12 Q. And did you analyze or consider
13 the possibility that that happened here or
14 that that was true here, with respect to
15 the alleged misrepresentations in this
16 case?

17 A. Yes. For each of the alleged
18 misrepresentations, I analyzed them not
19 only to see whether the stock price moved
20 on the date of the alleged
21 misrepresentation, but as well as whether
22 there was price impact and whether the
23 price would have been different if not for
24 the alleged misrepresentation. So I've
25 done a whole analysis, not only looking at

Page 281

1 L. Allen

2 did the actual stock price move on the
3 date of the alleged misrepresentation.

4 Q. So just accept for this purpose
5 the definition that "price maintenance"
6 refers to a case where the price does not
7 move following a misstatement, but there
8 is, nonetheless, price impact from the
9 misstatement.

10 Can we just accept that, for
11 purposes of this discussion, as a
12 definition of "price maintenance"?

13 A. Okay.

14 Q. What was your conclusion about
15 whether there was price impact based on
16 price maintenance with respect to the
17 misrepresentations alleged here?

18 A. That there was no price impact
19 from any of the alleged
20 misrepresentations, including the theory
21 that you have just described that you're
22 calling "price maintenance."

23 MR. BEHA II: Thank you. I have
24 nothing further.
25 EXAMINATION BY

Page 282

1 L. Allen

2 MR. BROWER:

3 Q. With respect to each
4 misrepresentation, you analyzed to
5 determine whether the price would have
6 been different if -- but not for the
7 misrepresentation?

8 A. Correct.

9 Q. Please tell me how you went
10 about doing that.

11 A. My report summarizes, and so
12 that is the entire analysis that I have
13 done in my report. My report
14 summarizes -- everything that is in my
15 report speaks to that. That -- that is my
16 assignment, as I understand it, is whether
17 the alleged misrepresentations impacted
18 the price, and that's exactly what I have
19 been asked to analyze.

20 And everything that I have done
21 in this -- in this report, in this
22 project, was to answer that question.

23 Q. Is there a difference between
24 the price not having a statistically
25 significant change due to a

Page 283

1 L. Allen

2 misrepresentation and the analysis of
3 whether the stock would have been
4 different had the misrepresentation not
5 been made?

6 A. So one question is, after a
7 misrepresentation is made, is there a
8 stock price movement?

9 Q. Uh-huh.

10 A. That can help to analyze price
11 impact. That is one of the things that I
12 looked at here in analyzing price impact,
13 but as we just discussed and as we have
14 discussed a number of times, it is
15 possible for there to be a statistically
16 significant reaction after
17 misrepresentation, and for there to be no
18 price impact, and it is possible for there
19 to be price impact and no statistically
20 significant reaction after an alleged
21 misrepresentation.

22 Q. Your report says, in various
23 parts, that the misrepresentation did not
24 cause any increase in the price.

25 Do you recall that?

Page 284

1 L. Allen

2 A. I'm not sure I do recall that,
3 no.

4 Q. Okay. Well, you can't look at
5 the price of a stock to determine whether
6 or not there was price impact where there
7 was no movement in the price of the stock;
8 is that correct?

9 A. I don't understand the question.

10 Q. Sure.

11 How do you analyze -- I want to
12 know how you analyze and -- strike that.

13 I want to know how you went
14 about analyzing that there was no price
15 impact, based on the assumption the stock
16 price would have been different but for
17 the misrepresentation.

18 A. It's not an assumption. What I
19 am testing is whether there is price
20 impact, whether the stock price would have
21 been different but for the alleged
22 misrepresentation. That is the question
23 that I am answering, and my entire
24 analysis speaks to that question.

25 Q. But where in your -- show me --

Page 285

1 L. Allen

2 show me with respect to the June 28
3 announcement, the work you did with
4 respect to what you just described.

5 A. So my whole report is not --
6 I've done an analysis in its entire -- you
7 know, the analysis is -- some of it
8 discusses it by alleged misrepresentation,
9 but we've gone through this. My whole
10 report is analyzing that. There are a
11 number of alleged misrepresentations in
12 much of my report.

13 I'm not sure which parts of my
14 report aren't relevant to that, I guess is
15 why -- why I'm having trouble answering,
16 except the shares specific to a different
17 alleged misrepresentation.

18 Q. Well, I saw you tested -- you
19 tested whether or not the price itself had
20 a statistically significant change.

21 And you did that based on the
22 event studies?

23 A. Correct.

24 Q. Okay. The rest of your report
25 discusses what analysts were saying about

Page 286

1 L. Allen

2 the company compared to what plaintiffs
3 allege was misstated; is that fair?

4 A. No.

5 Q. Okay. What scientific
6 application did you do to determine that
7 there was no price impact with respect to
8 the misrepresentations made where the
9 price was maintained based on how your
10 counsel has described it, rather than
11 causing the price to go up or down?

12 A. So the analysis that I have done
13 in my report -- all of the analyses that I
14 have done in my report is regarding price
15 impact. And the question that I'm
16 analyzing is whether the alleged
17 misrepresentations impacted the stock
18 price, whether the alleged
19 misrepresentations, if they had not been
20 made, would the stock price have been
21 different. That is the question I am
22 analyzing.

23 The analysis that I have done in
24 my report is a standard and replicable
25 analysis. So each of the pieces that I

Page 287

1 L. Allen

2 have done, another analyst can come in, or
3 an economist can come in, and say, Is it
4 the case that, for example, is this -- if
5 you look at what was -- what were the
6 analysts thinking was the probability of
7 the BlackBerry 10's success? You could do
8 the same analysis, and you could see you
9 can come to a different conclusion.

10 You asked me -- you showed me
11 some analyst reports, and you found some
12 sentences in analyst reports that appear
13 to say -- you know, that you characterized
14 as saying positive things and supporting
15 plaintiffs' claim. A review of those
16 analyst reports shows, in fact, that they
17 don't support plaintiffs' claim. They --
18 you know, as we just looked at while we
19 were looking at them, they're clearly
20 saying something that contradicts price
21 impact from the alleged
22 misrepresentations.

23 So each one of the pieces of
24 analysis that I have done in my report is
25 something that someone else can do, can

Page 288

1 L. Allen

2 replicated and see if they -- it's
3 scientific. I have a methodology. It's
4 described.

5 You can do the same methodology
6 and see if you can come to the same
7 conclusions, or do you find something that
8 is -- come to a different conclusion.
9 This is the same methodology that -- or
10 part of it is the same as what
11 Dr. Feinstein described as how one would
12 analyze price impact.

13 Q. So let me understand.

14 From based on what your report
15 provides, you look at the analyst reports,
16 and you determine where the analysts did
17 not support plaintiffs' allegations that
18 they were misrepresentations at all?

19 A. No.

20 MR. BEHA II: Objection.

21 Misstates her testimony.

22 A. That's not what I said, and I
23 wouldn't agree with that.

24 Q. Well, your report goes on and on
25 and on and says, Plaintiffs say this, but

Page 289

1 L. Allen

2 the analysts say the opposite.

3 So either, A, they didn't
4 believe -- they didn't believe the
5 company's statements, or they were
6 immaterial as a matter of law, or they
7 didn't matter. But that's how you proved
8 the lack of price impact, wherein the
9 price did not move upon the misrep- -- the
10 alleged misrepresentations.

11 And I just want to understand
12 your methodology.

13 Is that your methodology? You
14 go through the analysts, and you compare
15 what they say to what plaintiffs allege,
16 to show that plaintiffs' allegations are
17 wrong?

18 A. No.

19 Q. Okay.

20 A. I would not agree with that.

21 Q. Okay. Let's go to June 28, not
22 March 28, in your report.

23 Show me the analysis for the
24 June 28 alleged misrepresentation to show
25 the lack -- where you show the lack of

Page 290

1 L. Allen

2 price impact in connection with that
3 statement, irrespective of the statistical
4 significance of the price movement itself?

5 A. So I would refer back to my
6 prior answers that my entire report
7 describes a whole process and that the
8 allegations that plaintiffs put forward
9 are -- have some relationship to each
10 other, and that what I have done
11 throughout my report is -- there are many
12 things that I have done and analyses that
13 I have done in my report that speak not
14 only to any specific date of alleged
15 misrepresentations, but speak to other
16 claims within the Complaint.

17 So plaintiffs have -- one, two,
18 three -- four alleged misrepresentations
19 and two alleged corrective disclosures.
20 So there's not a -- there's obviously some
21 overlap in terms of misrepresentations and
22 alleged corrective disclosures.

23 So I'm not sure that I can
24 separate which of the pieces of mine -- I
25 would -- I would tell you to look to my

Page 291

1 L. Allen

2 entire report. I think much of my entire
3 report speaks to an analysis of the
4 alleged misrepresentations on June 28,
5 because plaintiffs are claiming that the
6 alleged misrepresentations on June 28
7 are -- are corrected and -- at
8 September 20.

9 And they're also claiming that
10 September 20 corrects the alleged
11 misrepresentations at the beginning of the
12 class period. So plaintiffs' claim is
13 that these two -- the stock price at the
14 end of the class period is not only
15 correcting misrepresentations in June, but
16 other misrepresentations.

17 So there's a lot of
18 intermingling of plaintiffs' claims in
19 this case. So it's hard to say I think
20 that my entire report would be helpful in
21 analyzing the alleged misrepresentations
22 in June 28.

23 Q. I understand.

24 A. But --

25 Q. Go ahead.

Page 292

1 L. Allen

2 A. So I don't want to limit myself
3 to -- but some of the things that are
4 specific to the alleged misrepresentations
5 in June 28 is that the statements that
6 plaintiffs claim are misrepresentation is
7 that the BlackBerry 10 has been
8 well-received. At the time after the
9 alleged misrepresentations, the -- a
10 number of analysts, including the majority
11 of analysts, were evaluating the company
12 by the sum of the parts.

13 So they were telling us what is
14 their expectation, what is their valuation
15 of each of the pieces of the company. And
16 at that point, they had already given zero
17 value to that portion of the company. So,
18 for that statement to have price impact,
19 that "the BlackBerry 10 has been
20 well-received" after this statement that
21 supposedly is increasing the stock price
22 and giving false impression that the
23 BlackBerry 10 is doing well, the analysts
24 are giving zero value to the
25 BlackBerry 10.

Page 293

1 L. Allen

2 So that's one of the pieces of
3 objective scientific evidence and
4 something that is replicable and that
5 another analyst, another economist, can
6 look at the analyst reports and see
7 whether a lot of them are valuing the
8 company, doing some of the parts, and for
9 the analysts valuing the company, doing
10 some of the parts, is that true that they
11 have given zero value to the BlackBerry 10
12 part of the business?

13 That's one piece that shows
14 there is no price impact from the alleged
15 misrepresentation that the BlackBerry 10
16 has been well-received.

17 Another piece of objective
18 evidence that the alleged
19 misrepresentation that the BlackBerry 10
20 has been well-received had no price impact
21 when made, is that the analysts are not
22 repeating that statement. They are not
23 taking that statement from the company and
24 saying that that is impacting their
25 valuation of the company.

Page 294

1 L. Allen

2 One of the criteria, one of the
3 ways that Dr. Feinstein testified to as
4 analyzing price impact is whether an
5 alleged misstatement goes into the
6 valuations of -- whether the analysts say
7 it goes into their valuations of the
8 company. So that's another analysis
9 that's described in my report that shows
10 that there is no price impact from the --
11 the alleged misrepresentations.

12 I think there's -- I think,
13 really, my whole report would be helpful.
14 And I could go through every page and try
15 to find additional things that are in
16 here, but I think they're -- my report has
17 summarized all of the analysis that I have
18 done, and much of it, because plaintiffs'
19 allegations have -- are related, the
20 analysis speaks not only to -- whatever --
21 speaks to all of the alleged allegations
22 in the case.

23 Q. Were all analysts analyzing
24 BlackBerry based on the sum of its parts?

25 A. No. I think I say how many of

Page 295

1 L. Allen

2 the analysts were analyzing BlackBerry
3 based on the sum of the parts.

4 Q. And was that before or after the
5 announcement that they had formed a
6 strategic committee to look into strategic
7 possibilities for the company, which the
8 analysts viewed as a potential merger or
9 takeover transaction?

10 A. No, this is before that, so --

11 Q. Did any of the analysts before
12 August 12 analyze the company as a
13 potential takeover target?

14 A. Did they analyze it?

15 Q. Yeah.

16 A. Sure. They were thinking about
17 a potential takeover target at that point
18 in time.

19 Q. Yeah, they were doing it before
20 the class period began, didn't they?

21 A. There was -- so the company,
22 before the class period started, some
23 period before, had mentioned they were
24 pursuing strategic alternatives or
25 something to that effect. I don't think

Page 296

1 L. Allen

2 the analysts thought it was as likely a
3 scenario as they do in August, during the
4 alleged class period, when they think
5 it's -- they -- you know, the stock price
6 goes up. That's another alleged
7 misrepresentation.

8 But what I have found, as
9 Dr. Feinstein has found, is that the stock
10 is going up because of the announcement of
11 pursuing strategic alternatives.

12 Q. Let me just be clear, so we can
13 tie this up.

14 Your analysis of the lack of
15 price impact, where the price did not move
16 in a statistically significant way, is
17 based on what the analysts were saying
18 that are set forth in your report?

19 A. My analysis of price impact is
20 based on all the analysis that is
21 described in my report. I have tried to
22 be as clear as possible, and I have tried
23 to be very specific about what is the
24 analysis and how to do it and how one can
25 replicate it. It is cited in my report.

Page 297

1 L. Allen

2 And your characterization of it, I would
3 not agree with.

4 Q. Okay. By the way, what -- what
5 educational background do you have to
6 interpret analyst reports?

7 What classes or specialty do you
8 have for that exercise?

9 A. I have been at NERA for over 20
10 years. I have read -- I can't hazard a
11 guess, but I have read many, many, many
12 analyst reports. I have analyzed enormous
13 numbers of analyst reports. I spend a lot
14 of my time over the last 20-plus years
15 looking at analyst reports and listing
16 how -- their relationships to stock price
17 movements.

18 I have, gosh, reviewed
19 depositions and testimony of analysts on,
20 you know, what they do and why they do it,
21 because that's been an issue in a number
22 of cases that I have worked on.

23 Q. Is interpreting analyst reports
24 or what the intent of an analyst report a
25 subjective or objective exercise?

1 L. Allen

2 A. I don't know about interpreting
3 analyst reports. I think what I have done
4 is an objective analysis. I think it's
5 objective and replicable. I'm not talking
6 about interpretation. I am -- I have a
7 number of analyses here that are objective
8 and rep- -- replicable.

9 Q. You also have a number of
10 analyses which are summaries of what the
11 market believed. I believe that's a
12 phrase that appears regularly in the
13 report.

14 A. I have summarized it. And then
15 I have given evidence of how I have come
16 to that conclusion, and I have given all
17 of the analyst reports that I have
18 reviewed and all of those statements over
19 to you and your experts.

20 And that is something that -- I
21 mean, so, in other cases, I have -- I have
22 copied every single statement that
23 analysts made with regard to a specific
24 issue and attached them to my report. And
25 I have said this is -- these are -- this

1 L. Allen

2 is every single statement that is made.

3 In this case there are a handful
4 of reports, and the -- the BlackBerry 10
5 and those devices are a big part of what
6 analysts are covering, so it is voluminous
7 for the fact-finder. But I have -- have a
8 methodology, and I've described it, and
9 your expert can go through and do exactly
10 the same things and see if he or she comes
11 to a different conclusion and show to what
12 extent those are different.

13 So it's not a -- it's not that I
14 have done something and have my
15 interpretation of it. I have done an
16 analysis that can be checked and
17 replicated.

18 Q. And just to end this, you -- you
19 said, in the past, you've attached every
20 statement regarding an issue that you
21 could find in every analyst report?

22 A. I have done that --

23 Q. Yeah.

24 A. -- in one particular case that I
25 am just remembering that I have recently

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2 done, because it was not -- wouldn't --
3 you know, didn't require stacks and stacks
4 of paper. I think that is -- that can be
5 helpful. I think it can be overwhelming
6 if it's -- it's overwhelming, if it's
7 just too much.

8 Q. And here you've selected from
9 the volume of analyst reports which
10 analyst reports you were going to cite and
11 quote?

12 A. I didn't do a selection in terms
13 of the analysis. I have -- for many of
14 the analyses, I have given you all of the
15 information that was in the analyst
16 reports, to the extent that I could fit it
17 on a page and do that.

18 To the extent it was quotes to
19 give, I have said what the conclusion is,
20 having reviewed all of them, and I have
21 given examples because there are too many
22 quotes to give every single quote.

23 So there are instances where I
24 have -- I have reviewed all of the
25 comments by analysts at a particular point

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2 in time and have stated my conclusion
3 about that and given quotes to show how it
4 is that I have come to the conclusion that
5 I have turned over all of the analyst
6 reports.

7 And you or your expert can look
8 through them and see if that is not a
9 conclusion that one comes to from
10 reviewing that.

11 Q. And you selected quotes from
12 the -- by the way, 444 analyst reports not
13 257. But there were 440 analyst reports
14 during the class period on BlackBerry.

15 You selected quotes to put in
16 your report. Every one is not there,
17 correct?

18 A. I have not included -- so, for
19 each topic that I am discussing something.
20 So, for example, I have not done a
21 selection, but I have reported every
22 analyst that gave probabilities of the
23 failure and success for the BlackBerry 10.

24 Q. All three?

25 A. There were -- well, there

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2 were -- there were three of them that gave
3 specific numbers and a fourth analyst that
4 gave -- gave it in words. And then I have
5 shown, for the-- I have another analysis
6 where I have taken every single analyst
7 and shown you -- that had price targets,
8 and shown you what their price target was
9 at the beginning of the class period.

10 And then you can look at the
11 analysts that gave actual probabilities
12 and see where -- are they an unusual set
13 of analysts? Are their price targets all
14 at one end, or are they -- and that's
15 something you can see.

16 Q. Ms. Allen, with respect to the
17 quotes in the sections where you discuss
18 each of the misrepresentations, did you
19 select them from the universe of analyst
20 reports that you reviewed?

21 A. There are different quotes from
22 analyst reports in here, and they're on
23 different topics.

24 Q. Did you select --

25 A. On some of them, they are --

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2 there are some -- there are some selection
3 of quotes where I say something, and I say
4 "for example."

5 Q. Okay. How do you know that
6 Morrison & Foerster turned over everything
7 that you advised them or provided them
8 that you reviewed in connection with
9 preparing your report?

10 A. Because we gave it all to them,
11 and they told me that they had given it
12 all to you.

13 Q. Do you have any firsthand
14 knowledge that they did it?

15 A. No.

16 MR. BROWER: Okay. Thank you
17 very much. Same reservations.

18 THE VIDEOGRAPHER: The time is
19 7:14. This closes today's deposition,
20 September 20, 2018.

21 (Time noted: 7:14 p.m.)
22
23
24
25

1 L. Allen

2 STATE OF _____)
3) :ss
4 COUNTY OF _____)

5
6
7 I, LUCY P. ALLEN, the witness
8 herein, having read the foregoing
9 testimony of the pages of this deposition,
10 do hereby certify it to be a true and
11 correct transcript, subject to the
12 corrections, if any, shown on the attached
13 page.
14

15
16
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18 _____
19 LUCY P. ALLEN
20
21
22
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25

1
2 CERTIFICATE
3 STATE OF NEW YORK)
4 : ss.
5 COUNTY OF NEW YORK)
6

7 I, Linda Salzman, a Notary
8 Public within and for the State of
9 New York, do hereby certify:

10 That LUCY P. ALLEN, the witness
11 whose deposition is hereinbefore set
12 forth, was duly sworn by me and that
13 such deposition is a true record of
14 the testimony given by the witness.

15 I further certify that I am not
16 related to any of the parties to
17 this action by blood or marriage,
18 and that I am in no way interested
19 in the outcome of this matter.

20 IN WITNESS WHEREOF, I have
21 hereunto set my hand this 25th day
22 of September, 2018.
23
24
25

Linda Salzman

1			
2	----- I N D E X -----		
3	WITNESS EXAMINATION BY	PAGE	
4	LUCY P. ALLEN MR. BROWER	7	
5			
6	-----REQUESTS-----		
7	SEC filings	35	
8	Copy of color version	148	
9			
10	----- EXHIBITS -----		
11	EXHIBIT FOR ID	PAGE	
12	EXHIBIT 1 Five-page letter	6	
13	EXHIBIT 2 Expert report of	17	
14	Lucy P. Allen		
15	EXHIBIT 3 Document headed Report on	26	
16	Market Efficiency		
17	EXHIBIT 4 Deposition of Lucy Allen	57	
18	EXHIBIT 5 Document headed IntraDay	74	
19	Price Analysis		
20	EXHIBIT 6 Document headed Historical	88	
21	BlackBerry Price Data		
22	EXHIBIT 7 Document headed Blackberry	146	
23	LTD Form 40-F		
24	EXHIBIT 8 Document headed	157	
25	Institutional Investor		

1			
2	-----EXHIBITS CONTINUED-----		
3	EXHIBIT FOR ID	PAGE	
4	EXHIBIT 9 Document headed Morgan	178	
5	Stanley		
6	EXHIBIT 10 Document headed Canaccord	189	
7	Genuity		
8	EXHIBIT 11 Document headed Deutsche	195	
9	Bank Markets Research		
10	EXHIBIT 12 Document headed Technology,	196	
11	Media & Telecom: Mobile		
12	Devices		
13	EXHIBIT 13 Document headed Citi	205	
14	Research Equities		
15	EXHIBIT 14 Document headed Daily Edge	208	
16	EXHIBIT 15 SEC Form 6-K for June 2013	224	
17	EXHIBIT 16 Document headed Blackberry	251	
18	News Release		
19	EXHIBIT 17 SEC Form 6-K for October	255	
20	2013		
21	EXHIBIT 18 SEC Form 6-K for December	267	
22	2013		
23	EXHIBIT 19 List of names	270	
24			
25			

1

2 ERRATA SHEET FOR THE TRANSCRIPT OF:

3 Case Name: PEARLSTEIN VS. BLACKBERRY

4 LIMITED

5 Dep. Date: September 20, 2018

6 Deponent: LUCY P. ALLEN

7 Pg. Ln. Now Reads Should Read Reason

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9 _____

10 _____

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19 _____

20 Signature of Deponent

21 SUBSCRIBED AND SWORN BEFORE ME

22 THIS DAY OF , 2018.

23 _____

24 (Notary Public) MY COMMISSION

25 EXPIRES:_____